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NATIONAL GAMBLING IMPACT AND POLICY COMMISSION ACT

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National Gambling Impact and Policy...

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

H.R. 497

NATIONAL GAMBLING IMPACT AND POLICY COMMISSION ACT

SEPTEMBER 29, 1995

Serial No. 34

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Printed for the use of the Committee on the Judiciary

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U.S. GOVERNMENT PRINTING OFFICE

22–589 WASHINGTON : 1996

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-052368-0

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NATIONAL GAMBLING IMPACT AND POLICY COMMISSION ACT

FRIDAY, SEPTEMBER 29, 1995

House of Representatives,
Committee on the Judiciary,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room 2141, Rayburn House Office Building, Hon. Henry J. Hyde (chairman of the committee) presiding.

Present: Representatives Henry J. Hyde, Carlos J. Moorhead, F. James Sensenbrenner, Jr., Bill McCollum, George W. Gekas, Howard Coble, Steven Schiff, Bob Inglis, Bob Goodlatte, Stephen E. Buyer, Martin R. Hoke, Fred Heineman, Ed Bryant of Tennessee, Steve Chabot, Michael Patrick Flanagan, Bob Barr, John Conyers, Jr., Charles E. Schumer, John Bryant of Texas, Robert C. Scott, and Sheila Jackson Lee.

Also present: Alan F. Coffey, Jr., general counsel/staff director; Thomas Smeeton, administrator/chief investigator; Joseph Gibson, counsel; Daniel M. Freeman, counsel/parliamentarian; Samuel F. Stratman, press secretary; Nicole Robilotto, legal assistant; Paul McNulty, counsel; Julian Epstein, minority staff director; Perry Apelbaum, minority chief counsel; Melanie Sloan, minority counsel; Tom Diaz, minority counsel; and Marie McGlone, minority counsel.

OPENING STATEMENT OF CHAIRMAN HYDE

Mr. Hyde. The committee will come to order.

There are some votes in the Senate I understand transpiring now, so the Senators will be coming in later on. But because we have a heavy schedule of witnesses and we have floor business ourselves, so we will be interrupting from time to time, we are going to move along and use the time as best we can.

I would like to announce to the members of the committee that, because of time constraints, the only opening statements that will be permitted will be my own and Mr. Conyers. For those members that have opening statements, they may be submitted for the record or, if you choose, at the end of the day when the witnesses are all through you may then make an opening statement, I guess, as you lawyers say, nunc pro tunc, but we do have to conserve time.

Today the committee holds a hearing on H.R. 497, the National Gambling Impact and Policy Commission Act. Congressman Frank Wolf, one of our witnesses, introduced this legislation which would create a National Commission to Study Gambling with an eye towards developing a national policy. Senators Simon and Lugar, who are also with us today or will be shortly, have introduced similar legislation in the Senate.

[The bill, H.R. 497, follows:]

I

104TH CONGRESS
1ST SESSION

H. R. 497

To create the National Gambling Impact and Policy Commission.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 1995

Mr. WOLF introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To create the National Gambling Impact and Policy Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Gambling Impact and Policy Commission Act".

SEC. 2. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the National Gambling Impact and Policy Commission (in this Act referred to as the "Commission").

SEC. 3. MEMBERSHIP.

(a) Number and Appointment.—The Commission shall be composed of 9 members appointed from persons specially qualified by training and experience, of which one should be a Governor of a State, to perform the duties of the Commission as follows:

(1) three appointed by the Speaker of the House of Representatives;

(2) three appointed by the majority leader of the Senate; and

(3) three appointed by the President of the United States.

(b) Designation of the Chairman.—The Speaker of the House of Representatives and majority leader of the Senate shall designate a Chairman and Vice Chairman from among the members of the Commission.

(c) Period of Appointment; Vacancies.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) Initial Meeting.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting as directed by the President.

(e) MEETINGS.—After the initial meeting, the Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 4. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—It shall be the duty of the Commission to conduct a comprehensive legal and factual study of gambling in the United States and existing Federal, State, and local policy and practices with respect to the legalization or prohibition of gambling activities and to formulate and propose such changes in those policies and practices as the Commission shall deem appropriate.

(2) MATTERS STUDIED.—The matters studied by the Commission shall include—

(A) the economic impact of gambling on the United States, States, political subdivisions of States, and Native American tribes;

(B) the economic impact of gambling on other businesses;

(C) an assessment and review of the political contributions and influence of gambling businesses and promoters on the development of public policy regulating gambling;

(D) an assessment of the relationship between gambling and crime;

(E) an assessment of the impact of pathological, or problem gambling on individuals, families, social institutions, criminal activity and the economy;

(F) a review of the demographics of gamblers;

(G) a review of the effectiveness of existing practices in law enforcement, judicial administration, and corrections to combat and deter illegal gambling and illegal activities related to gambling;

(H) a review of the costs and effectiveness of State and Federal gambling regulatory policy, including whether Indian gaming should be regulated by States instead of the Federal Government; and

(I) such other relevant issues and topics as considered appropriate by the Chairman of the Commission.

(b) REPORT.—No later than three years after the Commission first meets, the Commission shall submit a report to the President and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS AND SUBPOENAS.—

(1) The Commission may hold such hearings, sit and act at such times and places, administer such oaths, take such testimony, receive such evidence, and require by subpoena the attendance and testimony of such witnesses and the production of such materials as the Commission considers advisable to carry out the purposes of this Act.

(2) ATTENDANCE OF WITNESSES.—The attendance of witnesses and the production of evidence may be required from any place within the United States.

(3) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be

made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(4) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(5) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the

Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The executive director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairman of the Commission may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 4.

Mr. HYDE. I would say to my colleagues before I proceed further that these mikes are—at least the mikes up here—are live, and so be mindful of that.

I want to point out that Congressman LaFalce, John LaFalce of Buffalo, NY, has had a long-term interest in this topic, and he has introduced a similar bill, H.R. 462.

And I want to note that we invited the National Association of State and Professional Lotteries to be here today. They were unable to send a representative because this hearing fell on the same date as their annual conference.

These hearings have provoked intense interest, as is evidenced by the number and stature of our witnesses. The two sides of this issue are deeply divided. Indeed, they can't even agree as to whether the phenomenon we are talking about should be called gambling or gaming. We have come here today to listen to both sides so that we may better inform ourselves in our consideration of this legislation.

The Commission on the Review of the National Policy Toward Gambling published the Federal Government's last national study in 1976. Since that time, legalized gambling has grown exponentially. According to the American Gaming Association, some form of legalized gambling now exists in 48 of the 50 States. Legalized gambling is now a large force in the national economy.

Proponents of H.R. 497 argue that legalized gambling has numerous negative effects, including increased crime and problem gaming or gambling. They assert that gambling doesn't have the positive effect on the economy that is claimed. In their view, the social costs of crime and problem gambling more than outweigh the benefits of the increased tax revenues that gambling generates.

Under current law, most gambling operations are regulated by State law. The proponents of H.R. 497 claim that in legislative battles in the States those who support gambling have vast amounts of money to spend on lobbying, whereas opponents usually do not. Thus, gambling operations can overwhelm State efforts at regulation.

Gambling operations run by Indians or native Americans are regulated by the Indian Gaming Regulatory Act, a Federal law passed in 1988. Many State government officials feel they don't have sufficient control over Indian gambling operations under this law.

Given these problems with State regulatory powers over commercial and Indian gambling operations, the proponents of H.R. 497 believe that the tremendous growth of legalized gambling is a national problem that demands a national solution.

Opponents of H.R. 497 contend that gambling provides jobs and generates tax revenues. They argue that the increased crime surrounding gambling operations is nothing more than the natural result of the increased number of people in the area. Likewise, they contend that gambling operations do not draw dollars out of surrounding businesses any more than any other entertainment business.

Finally, opponents of H.R. 497 acknowledge the existence of problem gambling but contend that the industry is making efforts to address it. Owners of commercial gambling operations believe the current law properly places the regulations in the hands of the States and that H.R. 497 would violate principles of federalism.

Ultimately, the opponents of H.R. 497 argue that gambling exists because the public demands it and that, therefore, it is not a problem in need of a study or a solution.

As I noted at the outset, we are here today to hear from both sides of this issue, and we look forward to hearing from all of today's witnesses.

And I now yield to the ranking Democrat on the committee, John Conyers of Michigan.

Mr. CONYERS. Thank you, Mr. Chairman, and thanks to the distinguished Members of Congress that are joining us at this hearing.

I think it is important that we have called these hearings and that this most important subject of gambling and specifically whether Congress should consider establishing a National Commission to study the matter, be discussed here today.

Allowing gambling into our communities is a gamble. We are talking about whether new jobs, revitalization of cities, and income generation outweigh the increased crime, the gambling addiction, and other social ills that normally accompany gambling. I also acknowledge that gambling already exists in 48 of the 50 States.

The assessments of the costs and benefits of gambling vary widely. It depends on who you are talking to. I would like to report that in our State of Michigan, Indian casino gambling was approved by a popular referendum for downtown Detroit, only to be stopped dead in its tracks by the Governor of the State. This was after gambling resolutions had failed on several previous occasions.

Now there is no doubt that gambling has brought tens of thousands of jobs, tax revenue, and considerable recreation to regions that need it. It may have created as many as 70,000 jobs in Atlantic City and surrounding communities and it has brought both wealth and suffering to Indian reservations. It has provided a lot of recreation and fun and conjures romantic images of Mississippi riverboats and so forth.

But, notwithstanding, there is also a considerable body of data that shows that the costs are high for those romantic images, that gambling—compulsive gambling—can plague as much as 5 percent of the population. Gambling by minors is a clear and documented problem. The suicide rate in Nevada, which is one of the record highs of anywhere in the country, maybe in the world, has been tied to the prolific gambling that goes on within State borders.

Those for and against gambling will argue over the statistics relating to its costs and benefits for a long time to come, but it is precisely because of this controversy that the Commission makes sense. This bill doesn't prohibit gambling or tax increases. It merely asks that we study the problems associated with gambling. And let me say there have been a lot of studies, but nowhere have they been brought together in a sensible way for us to examine.

And in my own observations, Mr. Chairman, let me note that I have the impression that people of the lowest economic means have the greatest predisposition to participate in gambling activity. I have noted that in many places across the country, and I think it is something that we ought to look at very carefully. Whether gambling is a panacea for pain and creating taxes is yet to be determined.

In my area, we have a casino proposal; we have a riverboat proposal. In our city of Highland Park, there is another proposal. There are several very well-known entrepreneurs who are proposing casinos. And what I am trying to figure out is where all the customers are going to come from. In many urban areas, particularly my own, the unemployment rate among African-Americans is up around 24 percent. Who are the customers? Where is the benefit?

So I don't think I will hear anybody here arguing that gambling strengthens the character, or that it is good for families, but I for one would like to hear the witnesses testify. Many of our Members have worked long and hard on this subject. I look forward to their comments here.

And I would yield any remaining time to the former chairman of the Subcommittee on Crime, Chuck Schumer of New York, who has worked on this matter with a great deal of diligence. May I yield to him, Mr. Chairman?

Mr. HYDE. Well, I would love to hear from Mr. Schumer. He always has something worth listening to. But if Mr. Schumer talks, then Mr. Scott is entitled to talk, Mr. Goodlatte, Mr. Buyer, Mr. Gekas; and that is why I——

Mr. CONYERS. I take back my time. Because all Chuck wanted to know is that I was in good faith, and I wanted him to——

Mr. SCHUMER. He is in very good faith, Mr. Chairman.

Mr. HYDE. That is stipulated that you are in very good faith.

Mr. CONYERS. With that, I would yield back my time and hope to hear from the witnesses.

Mr. HYDE. I thank the gentleman very much, and I thank Mr. Schumer for his indulgence.

We have a very distinguished panel of Members of Congress before us today. First, we have the principal sponsor of H.R. 497, Congressman Frank Wolf from Virginia. Congressman Wolf has been active in this area for some time, and I know he feels strongly about this issue, and I look forward to hearing from him.

We also have several Members who oppose the bill. We have, or will have, the entire Nevada congressional delegation. From the House, we have my very good friends, Congresswoman Barbara Vucanovich and Congressman John Ensign, who have agreed to split a 5-minute period. And later from the Senate, when they can get here, we will have Senators Richard Bryan and Harry Reid, who have also agreed to split a 5-minute period. And from Atlantic City, NJ, we have my good friend, Congressman Frank LoBiondo. All of these Members have been very active in this area, and we are ready to hear their views on this legislation.

And may I request of the committee that we do not ask questions of this panel simply because I think it will be more productive, and time constraints require really that we move on to the next panel and the one after that. So if you could submit any questions you have to these folks in writing later on, that would be fine.

Mr. HYDE. So, Congressman Frank Wolf, we will hear from you first.

STATEMENT OF HON. FRANK R. WOLF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. WOLF. Thank you, Mr. Chairman.

Mr. Hyde, Mr. Conyers and members of the committee, I appreciate the opportunity to testify on the legislation to create a national commission to study the effects of gambling. The legislation is simple. It would charge the Commission to make an objective and comprehensive legal and factual assessment of gambling.

This legislation does not outlaw gambling. It does not tax gambling. It does not regulate gambling. It merely recognizes that gambling is spreading throughout the country like wildfire, with some form of gambling now legalized in 48 States, and it needs a hard look. This is our responsibility as Federal legislators to create a commission to bring together all the relevant data so that Governors, State legislators and citizens can have the facts they need to make an informed decision.

Why should this committee and the Congress be concerned about gambling? There is growing evidence that gambling has harmful side effects. Members should be concerned about reports that the rapid proliferation of gambling has caused the breakup of families and suicides and increased teenage gambling and a cannibalization of businesses.

When I read the story about Jason Berg, a 19-year-old from the small Iowa town of Elkader, ending his life after running up a large gambling loss and leaving a note that read, “I am out of control,” I am concerned.

When I hear about a 41-year-old suburban salesman, Howard Russell, who shot himself in a parking lot of the Grand Victoria casino in Elgin, IL, after losing more than $50,000, I get concerned.

How many other compulsive gamblers turn to violence after losing their life savings? Congress should act now to investigate these reports instead of waiting, as it did with the budget deficit, until there is an almost insurmountable problem.

Critics of this Commission claim that gambling is a State issue and that Congress should not be involved in studying it. Let me dispel that myth up front.

First, gambling is commerce and, as such, is subject to Congress’ commerce power under article I, section 8, of the Constitution. Also, public corruption and other criminal cases associated with gambling are investigated by the FBI. Furthermore, gambling is a nationwide phenomenon. Gambling in one State impacts the citizens of another. And, lastly, gambling interests can have their hooks into a State political structure, making it difficult for the State to make objective studies of gambling.

We recognize the States’ role in this issue. That is why section 3(a) of the bill states that one member of the Commission should be a Governor. It is time for the Federal Government to take a leadership role so that State and local communities have the facts when gambling interests come knocking on their doors.

Gambling interests criticize this legislation as the moral musings of the religious community. Supporters of H.R. 497 include 45 Republicans and 24 Democrats—Tom DeLay and Dave Bonior. Look at the list of supporters: The Washington Post, the Philadelphia Inquirer, and newspapers around the country, many States' attorneys general, Governors and others.

Let me just stress for the committee this is a bipartisan, nonideological coalition joined because of their sincere concern about the impact of gambling. It is not just the musings of some religious group. And I notice the opposition always says, in a demonizing way, it is the Christian Coalition. It is Mr. DeLay and Mr. Bonior and many in between.

Last year, Virginia blocked gambling interests' $1.1 million bid to bring riverboat gambling to the Commonwealth. Voters in Florida rejected a $16 million effort to legalize gambling. And yet you see major political influence in every State being hired, including my State, to work on these issues.

Crime—crime is a subject that the Commission will study. The Florida Department of Law Enforcement recently opposed legalized casino gambling because, and I quote, "Casinos will result in more Floridians and visitors being robbed, raped, assaulted and otherwise injured."

On April 11, a Washington Post article explained how law enforcement authorities uncovered, and I quote, "A sophisticated betting operation run by student bookies who not only mimicked the mob but worked with it." The article detailed how three New Jersey high school students "forced a 14-year-old schoolmate into a car, drove him to a housing project in Newark and dumped him there for failing to pay $500 in gambling debts."

Mr. HYDE. Mr. Wolf, could you bring your remarks to a close? Your time is up.

Mr. WOLF. I have so many others, Mr. Chairman. I would hope that I could have had 2 more minutes because I worked 7 months on this project, but I will bring it to a close.

Corruption—look at the list on corruption—from South Carolina, from Louisiana, from Missouri, from Arizona, from Kentucky, from West Virginia—and look at the statement and see all of the people who have been indicted.

Teenagers. We would make a demographic study. In Atlantic City in 1991 the New Jersey casinos ejected 21,838 persons under age from the casinos and prevented another 196 from entering. Read the Sports Illustrated piece.

The impact on business. Last year, and I am summarizing, in Mississippi, which has only had legalized gambling since 1992, $29 billion was gambled last year. And all of the retail sales in Mississippi were only $27 billion. More money was gambled than was spent on all retail sales. So we see what the impact has been on restaurants and legitimate business.

Pathological gambling—and I am summarizing—my goodness. You see the Gamblers Anonymous groups are spreading.

In conclusion, Mr. Chairman—and I summarized and I have left out four pages that I worked my heart out on for 7 months.

Mr. HYDE. Well, take all the time you want, Mr. Wolf. I am not going to be accused of shutting you up or anybody up. I am just trying to run an orderly hearing. Everybody has got a lot to say. Take all the time you want.

Mr. WOLF. No, Mr. Chairman, I am going to end.

Noted columnist William Safire recently called State-sponsored gambling “a $40 billion cancer, ravaging society, corrupting public officials and becoming the fastest-growing teenage addiction.”

Government is supposed to be the protector of society, not the sponsor of its ruin. It is not supposed to be the predator or to invite the predator to come in and prey on its people. When I receive a phone call from a man whose wife committed suicide because she gambled her savings away, I get concerned.

And I reiterate again, Mr. Chairman, this legislation does not outlaw gambling. It does not. It does not tax gambling. I am not one who is a proponent, frankly, of taxing gambling. It does not regulate gambling. It merely recognizes that gambling is pervasive in our society and it needs a hard look. As legislators, we have a responsibility to take a look at it.

Mr. Chairman, I apologize for going over my time. I thank you very, very much. I yield back anything I have.

Mr. HYDE. I thank the gentleman.

[The prepared statement of Mr. Wolf follows:]

PREPARED STATEMENT OF FRANK R. WOLF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Chairman Hyde, members of the committee, I appreciate the opportunity to testify on H.R. 497, legislation which would create a national commission to study the effects of gambling. This legislation is simple. It would charge the National Gambling Impact and Policy Commission to make an objective, comprehensive, and impartial legal and factual assessment of gambling.

Mr. Chairman, this legislation does not outlaw gambling. It does not tax gambling. It does not regulate gambling. It merely recognizes that gambling is spreading throughout the country like wildfire and it needs a hard look. This is our responsibility as federal legislators to create a commission to bring together all the relevant data so that governors, state legislators, and citizens can have the facts they need to make informed decisions.

Why should this committee and the Congress be concerned about gambling? There is growing evidence that gambling has harmful side effects. Members should be concerned about reports that the rapid proliferation of gambling has caused the breakup of families, suicides, an increase in teenage gambling, and the cannibalization of businesses. When I read the story about Jason Berg, a 19-year-old from the small Iowa town of Elkander ending his life after running up a large gambling loss and leaving a note that read, "I'm out of control," I get concerned. How many other teenagers have taken their lives because of gambling debts? When I hear about a 41-year-old suburban salesman, Howard Russell, who shot himself in the parking lot of the Grand Victoria Casino in Elgin, Illinois, after losing more than $50,000, I get concerned. When the police found him he reportedly had $13 in his pockets. How many other compulsive gamblers' turn to violence after losing their life savings? Congress should act now to investigate these reports instead of waiting, as it did with the budget deficit, until there is an almost insurmountable problem. It is time this issue be given national attention through a comprehensive study.

Critics of this commission claim that gambling is a state issue and that the Congress should not be involved in studying it. Let me dispel that myth up front. First, gambling is commerce and as such is subject to Congress's commerce power under Article 1, Section 8 of the Constitution. Also, public corruption and other criminal cases associated with gambling are investigated by the Federal Bureau of Investigation. Furthermore, gambling is a nationwide phenomenon. Gambling in one state impacts the citizens of another. Lastly, gambling interests have their hooks into the state political structure making it difficult for states to make objective studies of gambling. We recognized the states' role in this issue, and that is why section 3(a) of the bill states that one member of the Commission should be a governor. It is time for the federal government to take a leadership role, similar to President Reagan's National Commission on Pornography, so that state and local communities have the

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facts when gambling interests come knocking on their doors.

Gambling interests also criticize this legislation as the moral musings of the religious community. Supporters of H.R. 497 include: 47 Republican and 23 Democrats, many states' attorneys general, governors, and newspapers such as The Washington Post and The Cincinnati Enquirer. This is a bipartisan, non-ideological coalition joined because of their concern about the impact of gambling.

Gambling is one of the fastest growing industries in the nation and is becoming America's pastime. In 1993, according to U.S. News and World Report, Americans made more trips to casinos than they did to Major League ballparks. At the turn of the century, gambling was prohibited. Today, however, there are 37 state lotteries, casinos operate in 23 states, and 95 percent of all Americans are expected to live within a three- or four-hour drive of a casino by the year 2000. Only two states, Hawaii and Utah, forbid wagering.

Last year, Virginia blocked gambling interests' $1.1 million bid to bring riverboat gambling to the Commonwealth and voters in Florida rejected a $16 million effort to legalize casinos. Voters in Minnesota, Nebraska, Rhode Island, and Wyoming did the same. Why are gambling interests willing to bet so much on legalizing gambling? Why, according to The Boston Globe, are they hiring politically connected consultants to convince state legislators that gambling is a sure bet? Why have they hired some Massachusetts lobbyists at $65,000 per month plus expenses to "consult" on the legalization of gambling? I am concerned that the flood of casino money into the states will drown out the voices of ordinary citizens, and overwhelm state public officials.

Crime is a subject that the Commission would study. The Florida Department of Law Enforcement recently opposed legalizing casino gambling because **"casinos will result in more Floridians and visitors being robbed, raped, assaulted, and otherwise injured."** Jim Moody, chief of the Organized Crime Section, FBI, in a "60 Minutes" interview stated, **"[G]ambling itself ... is probably the biggest producer of money for the American La Cosa Nostra [that] there is."**

Organized crime does not only target adults. An April 11 Washington Post article explained how law enforcement authorities uncovered **"a sophisticated betting operation run by student bookies who not only mimicked the Mob, but also worked with it."** The article detailed how three New Jersey high school students **"forced a 14-year-old schoolmate into a car, drove him to a housing project in Newark and dumped him there for failing to pay $500 in gambling debts . . ."** In another case, a 16-year-old **"prostituted his girlfriend around school to raise money to pay his debts."**

Political corruption is another problem and not one confined to gambling's tawdry history which the commission should review. Federal law enforcement agents are currently investigating possible political corruption in Louisiana tied to gambling. Four Louisiana state senators have reportedly stepped aside because of an FBI investigation into the legislative influence wielded by the gambling industry. Similarly, the speaker of the Missouri House of Representatives has resigned in a cloud of gambling related political corruption. In August 1991, FBI agents in Columbia, S.C., wrapped up "Operation Lost Trust," a sting that resulted in the convictions of 17 South Carolina legislators, lobbyists and other officials for accepting bribes during the 1990 legislative session in exchange for their votes to legalize horse and dog track racing. Six Arizona legislators pleaded guilty in 1990 for accepting bribes on a bill to legalize casino gambling. Seven Kentucky legislators, including the speaker of Kentucky's House of Representatives, were found guilty of accepting bribes, extortion, racketeering under RICO and making false statements. In 1990, a former West Virginia Governor pleaded guilty to taking a bribe from racing interests. In 1994, a West Virginia lottery director was sentenced to federal prison for rigging a video lottery contract.

Because of crime associated with casino gambling, regulatory agencies in New Jersey spend over $59 million annually to monitor the city's casinos. In 1992, the Wall Street Journal reported that since 1976, Atlantic City's police budget has tripled to $24 million while the local population has decreased 20 percent. During the first three years of casino gambling, Atlantic City went from 50th in the nation in per capita crime to first. Overall, from 1977 to 1990, the crime rate in that city rose by an incredible 230 percent. Organized criminal activity is so pervasive that the American Insurance Institute estimates that 40 percent of all white collar crime is gambling related.

The Commission would make a demographic study of gambling including determining to what extent teenagers are gambling. In 1991 New Jersey casino security ejected 21,838 persons under the age of 21 from casinos, and prevented another 196,707 from entering. Research indicates that as many as 7 percent of teenagers may be addicted to gambling. Sports Illustrated recently ran a three-part series explaining that gambling has infiltrated college sports, is popular and pervasive on college campuses and is destroying young lives. Local Washington, D.C., area papers have chronicled the sad story of the University of Maryland standout quarterback who was suspended by the NCAA for betting on college sports events. Legalized gambling would increase pressure on students to place bets with money they often don't have.

The Commission would make detailed findings of gambling's impact on other businesses. Various studies indicate that income spent on gambling is not spent on movies, clothes, recreation services or other goods or services. An editorial from the Northeast Mississippi Daily Journal indicated that more money was bet in casinos ($29.7 billion) than was spent on all taxable sales ($27.6 billion) in the state. As gambling proliferates, job-creating wealth is shifted from savings and investment.

Gambling may cannibalize other businesses. For example, the number of restaurants in Atlantic City declined from 243 in 1977, the year after casinos were legalized, to 146 in 1987. In the four years following the introduction of casinos in Atlantic City, the number of retail stores in that city declined by about a third. Recent news reports indicate that attendance and revenues at the Iowa State Fair declined by over 10 percent this year due in part to the establishment of a horse track and a slot machine casino near Des Moines.

One reason this objective study is needed is because states, using gambling generated studies, frequently overestimate the financial impact of gambling revenues. Professor Robert Goodman of the University of Massachusetts/Amherst found that of 14 state studies of gambling, most were written with a pro-industry spin and only four were balanced and factored in gambling's hidden costs. In New Jersey horse racing alone accounted for about 10 percent of state revenue in the 1950s. Today, despite the addition of a lottery and 12 casinos, the state earns only 6 percent of its revenue through gambling. In a study about casinos in Florida, the Executive Office of the Governor concluded that annual projected state tax revenues related to casinos are sufficient to address only 8 to 13 percent of annual minimum projected costs related to casinos. That means for every $1 in tax revenues, the costs to taxpayers to pay for gambling is $8 - $13. It also projects that crime and social costs attributable to casinos would total at least $2.16 billion annually. States considering legalizing gambling need to know the truth about gambling tax revenues.

The Commission would study the impact of pathological, or problem gambling on individuals, families, social institutions, criminal activity and the economy. Gambling's social costs include direct regulatory costs, lost productivity costs, direct crime costs (including apprehension, adjudication, and incarceration costs), as well as harder-to-price costs such as suicide, family disintegration, and even increased car accidents. Problem and pathological gambling is tearing at the social fabric of American families--much like drug and alcohol abuse. A recent article written by a Kansas City Star reporter told the tragic story of how gambling addiction led a mother of two to kill herself because she gambled the family savings and house away on Illinois casino riverboats. Within two years of legalizing video lottery terminals, the tiny province of Nova Scotia in Canada went from zero to 12 chapters of Gamblers Anonymous. Outraged over widely publicized reports of broken marriages and wrecked lives, Nova Scotians forced the government to remove 2,400 machines.

Evidence shows that pathological gamblers engage in forgery, theft, embezzlement, drug dealing and property crimes to pay off gambling debts. Various studies indicate that the mean gambling related debt of people in compulsive gambling therapy ranged from about $53,000 to $92,000. Compulsive gamblers in New Jersey were accumulating an estimated $514 million in yearly debt.They are responsible for an estimated $1.3 billion worth of insurance-related fraud per year which is borne by the rest of us in the form of increased premiums, deductibles, or copayments.

The Commission should also review the costs and effectiveness of state and federal gambling regulatory policy, including whether Indian gaming should be regulated by states as well as the federal government. Indian gambling accounts for about 5 percent of all casino gambling and that figure is growing at an extraordinary rate. Unlike New Jersey and Nevada which have extremely costly, mature, and seemingly effective regulatory structures, the federal effort to regulate Indian gaming to prevent the infiltration of organized crime is scanty at best. There are less than 30 staff persons to regulate Indian gaming operations throughout the country. The Commission should recommend whether or not Indian gaming should be regulated by the states.

Mr. Chairman, noted columnist William Safire recently called state-sponsored gambling **"a $40 billion-a-year cancer ravaging society, corrupting public officials and becoming the fastest growing teen-age addiction."** Government is supposed to be the protector of society, not the sponsor of its ruin. It is not supposed to be the predator or invite the predator into America's communities. When I hear stories of mothers dragging their young children into casinos to plead with dealers to turn their husbands away from the tables, I get concerned. When I receive a phone call from a man whose wife committed suicide because she gambled their life savings away, I get concerned. And when I receive a letter from a Nevada man who is housing a young construction worker who gambled away his life's savings and whose gambling addiction led to drug use and divorce, I get concerned.

Mr. Chairman, again I reiterate: this legislation does not outlaw gambling. It does not tax gambling. It does not regulate gambling. It merely recognizes that gambling is becoming so pervasive in our society, it needs a hard look. We have a responsibility as federal legislators to bring together all the relevant data so that governors, state legislators, and citizens can have the facts they need to make informed decisions. Why do the gambling interests oppose this legislation? Is there something to hide? Let's find out through this commission's comprehensive review.

Again, I appreciate your holding this hearing and ask unanimous consent that my full statement and extraneous materials be included in the record.

A18 FRIDAY, SEPTEMBER 22, 1995

The Washington Post

AN INDEPENDENT NEWSPAPER

Social Roulette

THE SPREAD of legalized gambling is the political issue that has yet to roar, but may do so soon—and should. In a decade, casino gambling has spread from two states to at least 35. Gambling is done on riverboats, on Indian reservations, in well-established downtowns. Native American tribes (including some that have rediscovered their existence for the primary purpose of setting up casinos) are the best publicized entrepreneurs in this field, partly because they can operate free of many regulations. Estimates on how much money is involved here are all over the lot, depending on what sorts of gambling are counted in, but a study by U.S. News & World Report concluded that counting state lotteries and the like, $330 billion was wagered legally in 1992, up 1,800 percent since 1976.

Rep. Frank Wolf (R-Va.), along with Sens. Paul Simon (D-Ill.) and Richard Lugar (R-Ind.), thinks the country ought to take a long look as it hurtles toward turning itself into one gigantic open town. They have introduced useful bills to create a national commission that would undertake, as Mr. Wolf puts it, "an objective, credible and factual study of the effects of gambling" on communities, including its impact on crime rates, political corruption and family life, and also to examine its economic costs and benefits.

Those pushing casinos into communities make large claims about their economic benefits, but the jobs and investment casinos create are rarely stacked up against the jobs lost and the investment and spending forgone in other parts of a local economy. The commission's study could be of great use to communities pondering whether to wager their futures on roulette, slot machines and blackjack. The Wolf bill wants a report from the commission in three years; the Simon-Lugar bill wants it in half that time. We're inclined to think the quicker the better.

The "gaming industry," as it calls itself, is fighting these proposals. One hopes that at next week's House Judiciary Committee hearing on the Wolf bill, gambling's representatives will be asked why they fear a national commission. If all their claims about gambling's beneficial effects are true, a commission would presumably verify them. If critics of gambling are wrong in seeing it as being linked to crime, corruption and social breakdown, the commission would presumably find that out too. Could it be that those with an interest in the spread of gambling fear what a fair study will find?

True to form, gambling now has its own trade association, and gambling interests—tribal and others—have stepped up their campaign contributions to both parties. To pick a few examples: Golden Nugget, the well-known Las Vegas casino, gave $230,000 in "soft money" to the Republican Party last year; Frank Fertitta Jr., chairman of Station Casinos Inc., also gave $230,000 to the GOP; the Mashantucket Pequot Tribe gave $365,000 to the Democrats in the 1993-94 election cycle and covered its bets with $100,000 to the Republicans in November of 1994.

The country is in the presence of a powerful and growing industry and an important social phenomenon. At the least, the federal government should help the country figure out what is going on, which is why what Mr. Wolf, Mr. Lugar and Mr. Simon are doing is so important.

The Boston Globe

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No dice on casino

If Gov. Weld succeeds in making Massachusetts a gambling center, the state will have less chance of enriching itself than will the sad souls methodically feeding the 2,800 one-armed bandits he plans to install.

We hope Weld, who has shown a refreshing capacity for reconsideration, comes to his senses before signing an agreement tomorrow with the Wampanoag tribe and the owners of the state's four racetracks. If he does not, the Legislature should kill the deal fast.

In roulette, at least, one number out of 38 will be a winner. With the casino/slot machine proposal, every argument is a loser.

Weld wants to let the Wampanoag tribe build a casino in New Bedford, for which it would pay the state an estimated $90 million a year. The horse and dog tracks would get 700 slot machines each.

The core problem is simple: the resulting disruptions to the local job market, the local economy and the state economy would likely do far more harm than good.

Promoters say 5,400 permanent jobs would be created at a casino in New Bedford. But Illinois and Mississippi found job losses in nearby businesses offset the new gaming jobs. Often, casinos have turned the regional economy sour. Gamblers generally don't stray from the casino itself, so local businesses suffer, some severely. New Jersey and South Dakota casinos hurt retailers – and property values. The Massachusetts Restaurant Association opposed the New Bedford casino after completing a national study. "Gaming sucks discretionary income out of the economy," says Peter Christie of the MRA. "Our industry really gets hurt."

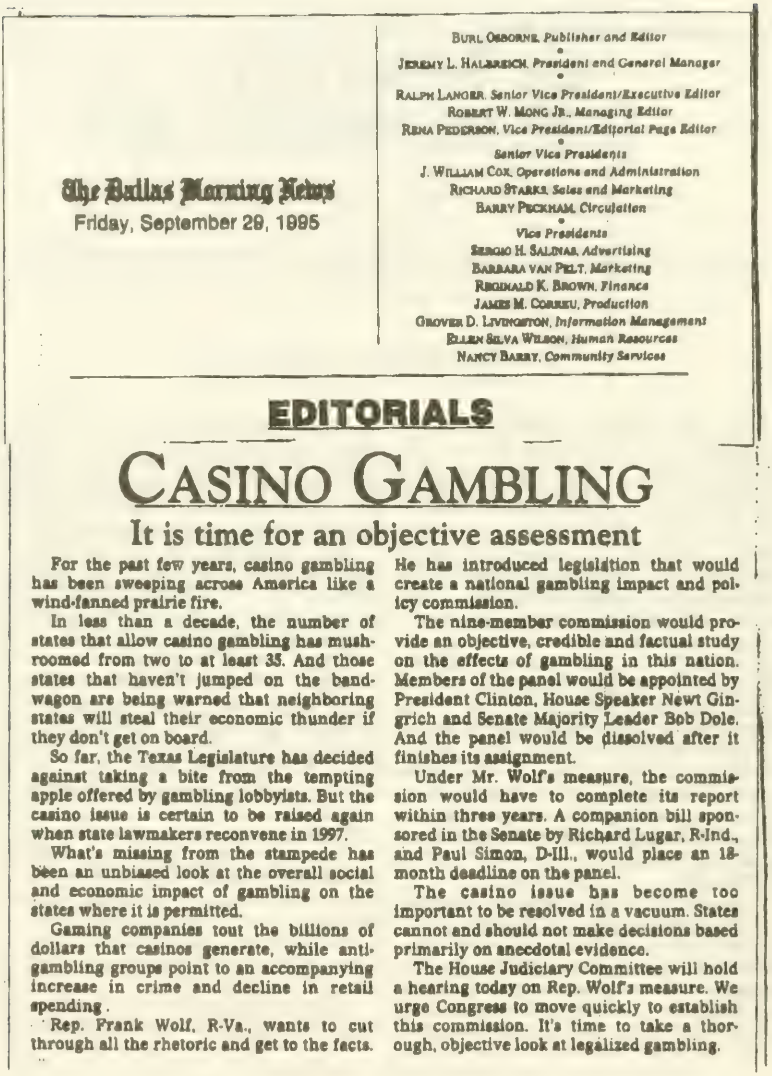
As for the state, the deal talks of $90 million from the tribe, less payments for Bristol County, Fairhaven and a board of regulators. The net to the state might be $75 million, plus an amount from the tracks of perhaps $50 million.

Yet the new gambling, particularly the racetrack slot machines, would surely take revenues away from the state lottery, which last year sent $700 million to the state and municipalities. Even a drop of less than 10 percent would cut the state benefit by half, without beginning to figure lost revenues from other sources, such as restaurants.

When the costs of increased crime, welfare and compulsive gambling were factored in, the results were shocking. Robert Goodman, who headed a national study, says the cost of casinos in Wisconsin was estimated at between $318 million and $493 million a year. State-promoted gambling has fed corruption in Louisiana. Problem gambling has tripled in Iowa and afflicts six percent of the population in Connecticut.

Casinos and slot machines offer no rainbow for the gamblers, the governor, or Massachusetts.

Boston Globe, Sept 28, 1995



The Dallas Morning News
Friday, September 29, 1995

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EDITORIALS

CASINO GAMBLING

It is time for an objective assessment

For the past few years, casino gambling has been sweeping across America like a wind-fanned prairie fire.

In less than a decade, the number of states that allow casino gambling has mushroomed from two to at least 35. And those states that haven't jumped on the bandwagon are being warned that neighboring states will steal their economic thunder if they don't get on board.

So far, the Texas Legislature has decided against taking a bite from the tempting apple offered by gambling lobbyists. But the casino issue is certain to be raised again when state lawmakers reconvene in 1997.

What's missing from the stampede has been an unbiased look at the overall social and economic impact of gambling on the states where it is permitted.

Gaming companies tout the billions of dollars that casinos generate, while anti-gambling groups point to an accompanying increase in crime and decline in retail spending.

Rep. Frank Wolf, R-Va., wants to cut through all the rhetoric and get to the facts. He has introduced legislation that would create a national gambling impact and policy commission.

The nine-member commission would provide an objective, credible and factual study on the effects of gambling in this nation. Members of the panel would be appointed by President Clinton, House Speaker Newt Gingrich and Senate Majority Leader Bob Dole. And the panel would be dissolved after it finishes its assignment.

Under Mr. Wolf's measure, the commission would have to complete its report within three years. A companion bill sponsored in the Senate by Richard Lugar, R-Ind., and Paul Simon, D-Ill., would place an 18-month deadline on the panel.

The casino issue has become too important to be resolved in a vacuum. States cannot and should not make decisions based primarily on anecdotal evidence.

The House Judiciary Committee will hold a hearing today on Rep. Wolf's measure. We urge Congress to move quickly to establish this commission. It's time to take a thorough, objective look at legalized gambling.

A16 *FRIDAY, SEPTEMBER 29, 1995* • • •

Richmond Times-Dispatch

VIRGINIA'S NEWS LEADER

Light, Not Heat

The days when Americans had to travel to Las Vegas or Atlantic City to gamble in a casino are gone — as is their sense of sinning-on-the-sly that created half the fun. Legalized gambling is now mainstream. In just 10 years, casinos have spread from only two states into at least 35.

Yet many Americans also have become convinced that Lady Luck enchants by the glow of neon, but is ugly in reality's glare. To determine whether that is a fair assessment, Virginia Congressman Frank Wolf has introduced legislation requiring a national commission to study legalized gambling's effects.

Wolf

While advocates insist state-sponsored gambling creates jobs, revitalizes economies, and produces high tax revenues, the record suggests it is just as likely to devastate economies, breed crime, and take a tremendous human toll. Consider that Mississippians gambled away nearly $30 billion last year — more than they spent for all the taxable retail sales in the state. With so much money going to casinos, other businesses closed. Those workers' jobs were lost. And when the ravenous gambling demon is the first mouth fed, clothes for the kids go unbought — as do tires for the family car.

It is telling that legalized gambling's boosters are fighting Wolf's proposal. For if they have confidence in what a study can show, then why not submit their views to scrutiny? Presumably objective evidence can exonerate as easily as it can indict.

In recent years — and with good reason — Americans have become increasingly wary of casino gambling's allure. Wolf's bill in the House (and the Senate version sponsored by Democrat Paul Simon and Republican Richard Lugar) could help assess the impact of a controversial industry. The measure deserves to pass. Congress generates plenty of heat; what's needed now is light.

THURSDAY, SEPTEMBER [illegible], 1995

THE CINCINNATI ENQUIRER

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Don't bet on it

It's time for Congress to find out if the gambling deck is stacked

The push to legalize gambling in the U.S. is a shameless seduction.

In the most brazen episode yet, casino promoters in Washington state are trying to bribe voters into passing a slot-machine initiative this fall. Anyone who votes — turnout could be up to 1 million voters — would get an estimated $100 a year as long as the slots keep cranking.

If $100 million a year is the payoff to voters, imagine how high the profits must be for casinos. With stakes that high, communities that don't carefully weigh the odds can wind up big losers.

By now, there should be plenty of evidence about legalized gambling, but the roulette wheels have been spinning too fast to stop and ask for it. Cash-hungry states and cities are clamoring to get a piece of the action. The promise of instant jobs and millions in tax revenues has been irresistible.

Gambling now is legal in all but two states; 25 allow casino gambling, up from only four in the early 1990s. U.S. gamblers bet a record $330 billion in 1992, according to *Gaming & Wagering Business* magazine.

Some places, like Indian reservations, are raking in big dough. Others, like Atlantic City, are nursing morning-after disillusion and huge losses.

The problem? Governments add up all the winnings, but don't subtract the costs and losses. Urban-planning professor Robert Goodman of the University of Massachusetts reviewed the studies that governments relied upon to embrace casino gambling. He concluded that there's a ton of pro-gaming "research" for every pound of objective analysis. The deck was stacked.

He found that nearly everyone, even media reports, relied mostly on industry-generated information and industry-linked sources. Opposition was often limited to religious leaders, leaving the impression that the only negative side of gambling is the morality sermon from zealous do-gooders.

But gambling can bring economic and social problems that outweigh benefits, said Goodman.

Rep. Frank R. Wolf, R-Va. is asking Congress to establish a National Gambling Impact and Policy Commission to objectively examine the long-term consequences of widespread legal gambling.

If the commission is not rigged by gaming lobbyists too, it might find some red-flag warnings for states.

Goodman's 1994 study concludes that gambling's promise as economic development savior is not warranted in many cases. Earlier this year, Michigan Gov. John Engler vetoed Detroit's plan to put a multi-million dollar casino in its blighted downtown. Engler said the deal was over-hyped and not good for the whole state.

Are we being suckered? Let's find out. Our future should be more than a crape shoot. Ask your Congressman and Senator to support a National Gaming Impact and Policy Commission.

The Philadelphia Inquirer

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EDITORIALS

The wages of wagering

Since no one's ever toted up gambling's impacts in a thorough way, a federal study sounds useful.

With plans to revive Philadelphia's Naval Shipyard in ruins — and the city's economic choices shrinking once again — the pressure to invite organized gambling to town only increases. Of course, Mayor Rendell and key legislative players have been pushing this risky bet.

The citizenry has been treated to glowing "studies" of gambling's supposed benefits. And it has heard selective arguments about its job-generating potential. What has not been on the table are both the larger question — Is big-time *gambling* the way we want to raise money for the public good? — and a host of smaller, niggling questions — How will this corrupt an already vulnerable political process? What about the social toll? Who will police this thing? What happens to Center City if its existing businesses begin hearing a giant sucking sound to the east?

It is not good enough to hear exquisitely gerrymandered pieces of the story. It is not good enough to read the words of partisan, pro-gambling mouthpieces on the order of former U.S. Attorney Michael Baylson. Nor, for that matter to hear the case against gambling only from not-in-their-backyard neighborhood groups or from reformed addicts with a well-practiced alarmist spiel.

That is why the idea of a National Commission on the Impact of Gambling being proposed in Congress has appeal. A hearing on a House bill proposed by Rep. Frank R. Wolf (R., Va.) is set for tomorrow. A Senate bill calling for a similar commission is sponsored by Sen. Paul Simon (D., Ill.) and Sen. Richard G. Lugar (R., Ind.), a presidential candidate.

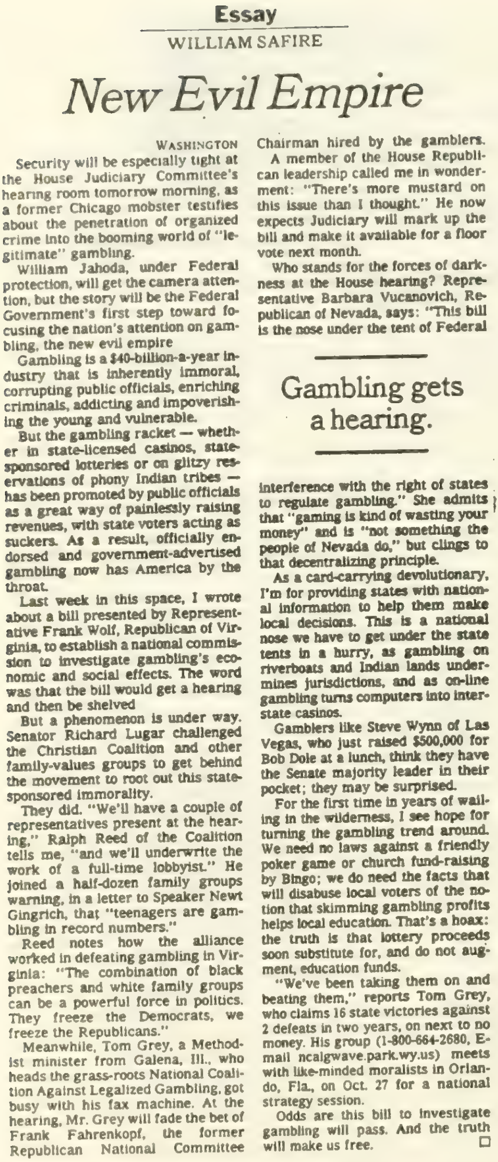
Mr. Wolf says he's seeking "an objective, credible, factual study of the effects of gambling on communities." Hear! Hear! From Louisiana, where retail sales have plummeted in the face of riverboat gambling, to New Jersey, where the downsides of casino gambling are hard not to miss on the streets of Atlantic City, the reality wars with the glowing reports from City Hall.

U.S. Rep. Frank LoBiondo (R., N.J.), whose district includes Atlantic City, says he'll testify against the commission, arguing that it smacks of federal meddling in local issues and that its sponsors really want to abolish "gaming," not study it.

Let it be granted that the sponsors are no fans of gambling. But that need not mean the panel's membership would be hopelessly tilted. It doesn't preclude the commission conducting a more thorough assessment than has been achieved so far of the impact gambling has had on families, crime, state budgets and the economic life of communities.

As to the "local control" objection, the casino-gambling business is hardly *local*, in its market reach, its ownership or its lobbying power.

The brighter the spotlight that can be cast on its revenues, its social impact, its corruption and, finally, its inflated promise, the better chance local people have of deciding whether to invite it in.



Essay

WILLIAM SAFIRE

New Evil Empire

WASHINGTON

Security will be especially tight at the House Judiciary Committee's hearing room tomorrow morning, as a former Chicago mobster testifies about the penetration of organized crime into the booming world of "legitimate" gambling.

William Jahoda, under Federal protection, will get the camera attention, but the story will be the Federal Government's first step toward focusing the nation's attention on gambling, the new evil empire

Gambling is a $40-billion-a-year industry that is inherently immoral, corrupting public officials, enriching criminals, addicting and impoverishing the young and vulnerable.

But the gambling racket — whether in state-licensed casinos, state-sponsored lotteries or on glitzy reservations of phony Indian tribes — has been promoted by public officials as a great way of painlessly raising revenues, with state voters acting as suckers. As a result, officially endorsed and government-advertised gambling now has America by the throat.

Last week in this space, I wrote about a bill presented by Representative Frank Wolf, Republican of Virginia, to establish a national commission to investigate gambling's economic and social effects. The word was that the bill would get a hearing and then be shelved

But a phenomenon is under way. Senator Richard Lugar challenged the Christian Coalition and other family-values groups to get behind the movement to root out this state-sponsored immorality.

They did. "We'll have a couple of representatives present at the hearing," Ralph Reed of the Coalition tells me, "and we'll underwrite the work of a full-time lobbyist." He joined a half-dozen family groups warning, in a letter to Speaker Newt Gingrich, that "teenagers are gambling in record numbers."

Reed notes how the alliance worked in defeating gambling in Virginia: "The combination of black preachers and white family groups can be a powerful force in politics. They freeze the Democrats, we freeze the Republicans."

Meanwhile, Tom Grey, a Methodist minister from Galena, Ill., who heads the grass-roots National Coalition Against Legalized Gambling, got busy with his fax machine. At the hearing, Mr. Grey will fade the bet of Frank Fahrenkopf, the former Republican National Committee Chairman hired by the gamblers.

A member of the House Republican leadership called me in wonderment: "There's more mustard on this issue than I thought." He now expects Judiciary will mark up the bill and make it available for a floor vote next month.

Who stands for the forces of darkness at the House hearing? Representative Barbara Vucanovich, Republican of Nevada, says: "This bill is the nose under the tent of Federal interference with the right of states to regulate gambling." She admits that "gaming is kind of wasting your money" and is "not something the people of Nevada do," but clings to that decentralizing principle.

Gambling gets a hearing.

As a card-carrying devolutionary, I'm for providing states with national information to help them make local decisions. This is a national nose we have to get under the state tents in a hurry, as gambling on riverboats and Indian lands undermines jurisdictions, and as on-line gambling turns computers into interstate casinos.

Gamblers like Steve Wynn of Las Vegas, who just raised $500,000 for Bob Dole at a lunch, think they have the Senate majority leader in their pocket; they may be surprised.

For the first time in years of wailing in the wilderness, I see hope for turning the gambling trend around. We need no laws against a friendly poker game or church fund-raising by Bingo; we do need the facts that will disabuse local voters of the notion that skimming gambling profits helps local education. That's a hoax: the truth is that lottery proceeds soon substitute for, and do not augment, education funds.

"We've been taking them on and beating them," reports Tom Grey, who claims 16 state victories against 2 defeats in two years, on next to no money. His group (1-800-664-2680, E-mail ncalgwave.park.wy.us) meets with like-minded moralists in Orlando, Fla., on Oct. 27 for a national strategy session.

Odds are this bill to investigate gambling will pass. And the truth will make us free. □

New York Times, Sept. 28, 1995.

Nation/World

Woman gambles away family's savings, kills self

By Diana Aitchison
Kansas City Star

COLLINSVILLE, Ill. — The phone call came at 11:15 a.m.

"You need to come home," the police officer told Steve, who was at work at an oil refinery.

It had to be one of two things. Either his wife, Kate, had been in a car accident or some "dope head" had broken into his house again.

When he rounded the corner in his quiet neighborhood that Wednesday morning, he saw a moving van in front of his ranch-style house. Its ramp was down. Squad cars waited in the driveway.

"I'm sorry, Steve," a detective friend said, "your wife is dead. But you better call a lawyer. Now. Not tomorrow. Not in an hour. Right this minute."

The detective told Steve two things: His mortgage was 17 months behind. And the sheriff, there to evict him, had found Kate's suicide note.

Nobody said a word about the casino boats. But they had their suspicions.

Steve thought he knew his wife of 16 years. She was a devoted mother of two — a girl, 9, a boy, 11. She tatted lace, knitted winter scarves, collected pig figurines. She was a volunteer at the Lutheran church.

What he didn't know was that she was a compulsive gambler who secretly spent the family savings and mortgage money.

"I had no idea what was going on," said Steve, who, to protect his children, asked that the couple's last name not be used. "It hit me like a ton of bricks. First my wife is gone — then my house."

Steve started to go through his family's financial records, which Kate had always handled.

Instead of $8,000 in the savings account, he found $830. The $5,000 tax refund was gone. Then he found the check stubs.

Cash withdrawals in amounts of $150 and $200, one after the other. Savings withdrawals for $1,200.

Steve found his first clue to Kate's troubles in a W-2 tax form. Taxes his wife paid on a $1,200 win at the casino boat. He found more papers and brochures from a nearby riverboat casino. The Alton Belle and River Queen were less than 15 minutes from their home.

"I couldn't believe it," he said "She was the master of deceit."

> **"I had no idea what was going on. It hit me like a ton of bricks. First my wife is gone — then my house."**
>
> — Steve
> husband of woman who gambled away their savings, then committed suicide

The only time he went to a casino with Kate was in October, for her 40th birthday. Kate insisted They agreed to spend $40 each

"She seemed fine to me," said Steve, 45. "Of course whether she spent more money I don't know She said, 'You play that slot over there and I'll play over here'"

But a police officer said the combination of suicide and heavy debt suggested to him that gambling was probably behind this tragedy.

Steve found a paper trail that read like a diary of Kate's hidden life aboard the gambling boats She pawned her wedding rings. His ring And all she had to show for it was debt.

How much debt is yet to be determined. Taylor expects more creditors to appear.

Court records show a bank process server tried to reach her husband 10 times. Ten times Kate, who years ago worked at a finance company finding people with bad credit, held them at bay.

> **Court records show a bank process server tried to reach her husband 10 times. Ten times Kate — who years ago worked at a finance company finding people with bad credit — held them at bay.**

She was notified that on Feb. 1, the court-ordered process server and officers from the Madison County Sheriff's Office would move the family out of the house.

That morning, she drove her children to school. At home, she took a Smith and Wesson .357-caliber Magnum from a basement desk drawer. She wrote a note "To Whom it May Concern." In it, Kate said her husband knew nothing of the house repossession and told how to contact him at work. She taped the letter to the front door and left.

Kate drove to a nearby mall parking lot. She crawled into the back seat of her 1988 Oldsmobile. She aimed the gun behind her right ear and fired.

"The shame and embarrassment was too much for her," Steve said. "She couldn't face me or our minister, or anybody about it."

Steve has enough worries now. At night, his son is inconsolable. His daughter still hasn't cried.

Any minute his attorney, John Rekowski of Collinsville, could call.

Rekowski has been negotiating with the bank to let Steve and his children keep the house.

Steve is sure he can make back payments with his salary as a boiler maker. His co-workers passed a hat and raised $2,000 And Rekowski set up a fund to help recover the estimated $9,000 to $12,000 needed in back mortgage payments and bank repossession fees.

It is a quiet home, in a quiet neighborhood about five miles from the bright lights of the Casino Queen.

Slung over the back of a chair hangs Kate's black leather handbag The day the coroner handed it over, Steve felt a little sneaky. He opened it almost thinking Kate might come flying around the corner to snap at him.

Inside, he found her wallet, a brush, hairpins, some makeup and the checkbook Many checks were made out to cash Perhaps an indication that Kate tried furiously to win back the $6,000 she needed to keep her house

On Jan 24, the last check was written, for $200

A week later, Kate died with $2.58 in her wallet

Sports Betting Rings Moving Into Schools

Prosecutors Say Affluent Teenagers Attract the Mob to Upscale Suburbs

By Dale Russakoff
Washington Post Staff Writer

NUTLEY, N.J.—Standing tall above an impeccably manicured ball field, the biggest presence in a little downtown known for nickel parking meters and family owned shops like The Eight Ciccolini Brothers appliance store, Nutley High School looks as wholesome as the suburban community surrounding it.

But when three Nutley High students forced a 14-year-old schoolmate into a car, drove him to a housing project in Newark and dumped him there in February as punishment for failing to pay $500 in gambling debts, authorities uncovered a sophisticated betting operation run by student bookies who not only mimicked the Mob, but also worked with it.

Prosecutors have charged three students, two of them juveniles, with illegal gambling, kidnapping and theft by extortion. Three adults are charged with illegal gambling conspiracy for collecting debts and serving as intermediaries between student bookies and a New York-New Jersey crime family. The probe has moved beyond the students, prosecutors have said, and is heading "up the chain" of the crime family. More arrests are expected.

Nutley is only the latest in what has become a pattern of cases of organized crime infiltrating high schools, particularly in affluent communities, to capitalize on teenage gambling, according to police in several jurisdictions. Teenage gambling is attracting growing attention as a national problem; the first formal conference on the subject will be held later this spring at Harvard University.

"Sports betting is in every high school. It's just something kids do," said Durand F. Jacobs, a professor of psychiatry at Loma Linda University Medical School and an authority on teenage gambling. "And when there's big money, the big guys smell it and they come in."

In recent years, police have busted large betting rings in several upscale suburbs around New York City—including Madison, Conn., and West Orange, Paramus and Maplewood in northern New Jersey—and officers in each case charged or suspected that organized crime families were involved. In Chicago, authorities uncovered a gambling ring at a private high school after an 18-year-old's arm was broken for failing to pay. No charges were filed, according to the prosecutor who investigated the case, because student bettors refused to cooperate for fear of retaliation.

Police in Montgomery and Fairfax counties, the two most affluent in the Washington area, said they knew of no such cases in their jurisdictions.

In the New York area cases, students have run up debts in the tens of thousands of dollars, placing bets by telephone with bookies. In Nutley, bettors were given an 800 number to call for the "line" on football and basketball games, professional and college. They phoned in bets to student bookies, using the lingo of a gambling ring: "two times" was a $10 bet, "100 times" a $500 bet. Students could place bets all week without being asked to come up with cash. Monday was pay-up day.

If they won, the bookies delivered the cash. If they lost, the bettors had to pay, and if they didn't student bookies were under pressure from the professional bookmakers to collect, investigators said. Police said bets totaled $7,500 a week from about 25 students and about 25 adults. In New Jersey, it is a crime to run a bookmaking ring, but bettors are not liable.

A group of baseball players preparing for practice here the other day said the case has been blown out of proportion. "In reality, it was just some kids making a few bets, not some big thing like in New York," said team member Mike Greco. "If you didn't pay, they said, 'Make sure you do.' " Asked about the kidnapping, Greco and other players said the 14-year-old who was abducted was bigger than the three charged with kidnapping him.

But community and school leaders are taking the problem seriously, and recently held a teach-in for parents of high school students with police and New Jersey's Council on Compulsive Gambling. They were told that teenagers are twice as likely as adults to become compulsive gamblers, particularly in a state like New Jersey that sponsors gambling at casinos in Atlantic City, at racetracks and through a lottery. Authorities said it is common for students whose parents gamble regularly to fall into the habit.

Edward Looney, who heads the compulsive gambling council, said the mother of one of the juveniles charged with kidnapping has enrolled her son in Gamblers Anonymous. "He owed the bookmaker $5,000," Looney said. "He was under a lot of pressure and he did something crazy."

Essex County assistant prosecutor Fred Franco said that in an earlier investigation elsewhere in New Jersey, a 16-year-old high school student was found to have prostituted his girlfriend around school to raise money to pay his debts.

"She was pawned around the school, willingly," he said. "They both talked to us, but absolutely refused to cooperate out of fear. She said she did it to help him. He was threatened, his family was threatened, he had to get the money and he felt this was the only way to get it."

Franco said parents often pose a major obstacle to cracking such cases.

"The parents, 99 percent of the time, will pay off the debt and don't want to get involved," he said. "In Nutley, at least four parents paid $200 to $1,000. Obviously they feared who their children ultimately owed money to."

According to police, parents have drained bank accounts, taken out second mortgages and cashed in individual retirement accounts after children were threatened for nonpayment of debts in the tens of thousands of dollars.

"When parents find out about this, their reaction is often, 'Thank God it's not drugs,' " Franco said. "Many of them do not take it as seriously as they should."

WEDNESDAY, APRIL 12, 1995

Robert W. Roland *978 Hickock Street* *Sunrise Manor, NV 89110* *Tele:(702)452-1077*

September 9, 1995

The Honorable Frank R. Wolf
Untied States House of Representatives
241 Cannon House Office Bldg.
Washington, D.C. 20515

Dear Mr. Wolf:

A native Virginian, I moved to Nevada 23 years ago when as a pilot for United Airlines I was transferred to Los Angeles. I chose to live in Nevada instead of the L.A. area because of my son's health problems. As one who has worked among the poor and dysfunctional for almost 40 years, I've have seen the devastation wrought by gambling upon those unable to resist its sirens call. Living in my home at this moment is a man who destroyed his family because of his gambling addiction. In a brief six-week period he admits to going through $50,000. A more recent experience is that of a young construction worker who in a two-month period gambled away his family's entire savings of $12,000 and maxed-out his credit card. His gambling addiction led to drug use, and the subsequent divorce resulted in a single mother left alone to care for two children. Such heart rendering stories are endless.

Here in Nevada the gambling (gaming) industry is now making a big deal about how concerned they are with gambling's affect upon some people, but this is nothing more than a propaganda ruse. The TV ad encouraging folks to cash their paychecks at casinos flood the airways as never before. That a father may lose his entire paycheck before he arrives home on a Friday evening is of no concern to gambling moguls. Only the "bottom line" matters in this town. And, the local news media, as well as government officials, have little to say on the matter, for like almost every other community across the country they are desperate for all the tax revenues they can garner.

I concur wholeheartedly in your effort to establish a commission to study the effects of explosive gambling upon our society, but I caution this group not to listen only to the voices of Frank Fahrenkopf, Steve Wynn, and other giants of the industry. Instead, if you want to know the truth about gambling's devastating effects, talk to those associated with groups such as Gamblers Anonymous. Or better still, listen to the wives, husbands, mothers, fathers, and children who have become victims of the addiction. At the same time let me advise you that it would be a gross mistake to focus upon the tax benefits of gambling, for this will only make the addiction appear even more alluring to the politicians who will ultimately approve or disapprove of its continuing spread.

Know that I and many other people here in this gambling mecca approve of what you're trying to do. Thank you again.

Sincerely,

Robert W. Roland

Robert W. Roland

THE NEW YORK TIMES, THURSDAY, SEPTEMBER 14, 1995

Essay

WILLIAM SAFIRE

Stop Computer Slots

WASHINGTON

At last: a candidate for the Republican Presidential nomination has come up with a moral issue that the next President and Congress can actually do something about

The issue is state-sponsored gambling, a $40 billion-a-year cancer ravaging society, corrupting public officials and becoming the fastest growing teen-age addiction.

"The spread of gambling," Senator Richard Lugar told the Christian Coalition, "is a measure of the moral erosion taking place in our country. ... It says that if you play enough, you can hit the jackpot and be freed from the discipline of self-support through a job or the long commitment to ongoing education."

In New York last week, Mario Cuomo's tawdriest legacy — a form of keno known as "Quick Draw" — introduced casino-style gambling to teen-agers at candy stores, using computer terminals to lure kids into shooting modern craps.

In Connecticut, the race for a casino in Bridgeport is down to bidding between Mirage Resorts (an apt name for the gambler's goal) and a recently re-formed "tribe" of Indians called the Pequots, whose chiefs are turning aboriginal Americans into a nation of croupiers.

Lugar touches a moral nerve.

In Mississippi, the money spent on gambling last year exceeded all the taxable retail sales in the state. Across the nation, under the fake cover of "supporting education," gambling interests offer a down-and-dirty fix to weak legislators.

It's about time someone running for President put this national rip-off on the nation's agenda. Lugar rightly slams adult hypocrisy: "We cannot tolerate the 'get rich quick' symbolism of gambling, while pleading with our children to avoid other 'tosses of the dice' that lead to unhealthy living and destructive behavior."

His challenge is suitable for the Christian Coalition. Its members may not be able to legislate morality, but here is where they can campaign to stop legislating immorality. A family-values movement to turn the tide of gambling is an issue whose moral moment has come.

Representative Frank Wolf, the Virginia Republican, has offered a bill to establish a National Commission on the Impact of Gambling. Senators Lugar and Paul Simon have a matching bill in the Senate. The commission would provide unbiased answers to "How does gambling affect suicide and crime rates among juveniles? What effect does a casino have on a city's economy? Who loses the money that makes gambling such a profitable business, and who then has to support the losers' families?"

The gambling lobby does not want those questions asked, much less answered. The American Gaming Association has been launched in Washington D.C., with a lobbying kitty of $2 million for openers, to block the Wolf-Lugar bill. ("Gaming" is what gamblers want us to call their racket because it connotes "play"; but when you lose the milk money, you have gambled, not "gamed," it away.)

Chief lobbyist for the gamblers is Frank Fahrenkopf, the Nevada lawyer who was chairman of the Republican National Committee. Frank got me coveted floor passes to several national conventions, and I wish he could find a less despicable way to make a living, such as representing tobacco interests or lobbying for an end to sanctions on Saddam Hussein.

His shock troops to block the gambling probe will be the Gambling Caucus in the House, led by a freshman from Nevada, John Ensign; the veteran Barbara Vucanovich, also of that gambler's paradise, and New Jersey's Frank LoBiondo.

The hearing on Wolf's bid to lift the lid on state-sponsored immorality will be held before the Judiciary Committee on Sept. 29. Chairman Henry Hyde, hero of the Christian Coalition for his principled stand against abortion, takes a straddle on this issue: "I am not a fan of, nor a zealot against, gambling," he tells me, adding with a sigh, "a little hope springs eternal." As things stand, the bill will die in committee.

Unless moralists — including most particularly those in the Christian Coalition — get the lead out of their vestments. Is the Republican Party to be the party of gambling, corrupting the very family values it preaches? Clinton is no help; his amoral approach is to add a Federal gambling tax to state taxes, which only puts the Feds in bed with the gamblers.

Get the government to stop promoting gambling. Listen to Lugar. ☐

FAIR ATTENDANCE DOWN, GAMBLING BLAMED

DES MOINES, Iowa (AP) Attendance at the Iowa State Fair this year was down 14 percent from last year, and part of the decline is likely due to increased gambling, the fair's director said Friday.

The fair announced Friday that 789,911 people attended the event Aug. 10-20 in Des Moines. The 1994 State Fair drew 913,263 people.

Paid attendance this year was 621,760, down 15 percent from last year's 731,051.

Hot and humid weather held down this year's attendance, Fair Manager Marion Lucas said.

Lucas estimated that revenues on the fair's midway rides and booths were down about 12 percent this year, and that the fair's share of food, drink and merchandise sales was down about $105,000 from last year.

Lucas blamed part of the downturn on the Prairie Meadows horse track and slot machine casino near Des Moines. The track added slot machines earlier this year and is drawing large crowds.

''Track officials say patrons are gambling $4 million per day with a 91 percent payback,'' Lucas said. ''Multiply that net ($360,000) by 11 fair days and you're talking $3.9 million in discretionary income. That has to come out of other attractions' pockets.''

He also said the cancellation of two grandstand concerts hampered attendance, along with the rainout of an auto race. Country singer Lorrie Morgan canceled her show after becoming ill, and pop singer Donna Summer canceled her show due to an illness in her family.

June 5, 1995

The Honorable Newt Gingrich
Speaker
H232 Capitol
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Gambling is sweeping the country and in its wake is leaving broken families, shattered dreams, and bankrupt businesses. Because we are concerned about the impact gambling has on America's families, our social institutions, crime, and small business, we would urge you and your colleagues to support H.R. 497, legislation introduced by Rep. Frank R. Wolf establishing the National Gambling Impact and Policy Commission.

As you may now, gambling ballot initiatives were more prevalent than term-limit initiatives this past election and the pressure to legalized gambling is sure to increase. Gambling is one of the fastest growing industries in the nation and is becoming America's pastime. In 1993, Americans made more trips to casinos than they did Major League ballparks. Casinos operate in 23 states and 95 percent of all Americans are expected to live within a three- or four-hour drive of one by the year 2000.

Negative impacts on state and local economies, small businesses, and most importantly families can no longer be ignored. Crime and social problems related to gambling could add to already overburdened criminal justice and social welfare systems. Newspaper stories report about suicide, divorce and overwhelming indebtedness caused by the despair of gambling. Teenagers are gambling in record numbers. Compulsive and pathological gamblers are deep in debt and in trouble with organized crime. These issues are of national social and economic importance, and one Congress should examine closely.

H.R. 497 would go a long way in empowering national, state and local officials to make informed decisions about the spread of gambling. We would appreciate your focusing your attention on this important matter.

Sincerely,

Ralph Reed Jr.
Ralph Reed
Christian Coalition

Louis P. Sheldon
Rev. Louis Sheldon
Traditional Values Coalition

Don Wildmon
American Family Ass'n.

Gary L. Bauer
Gary Bauer
Family Research Council

Dr. James Dobson
Focus on the Family

Beverly LaHaye
Beverly LaHaye
Concerned Women for America

The gentleman from Nevada, Mr. Ensign.

STATEMENT OF HON. JOHN E. ENSIGN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. ENSIGN. Thank you, Mr. Chairman.

I believe the State of Nevada's experience and record in the gaming industry speaks for itself, so my message today will be very simple and brief. The citizens of my State are proud and appreciative of the contributions that have been made by the casino industry to both the economic and social welfare of our communities.

I come from a gaming family myself. Most Nevadans depend upon the gaming industry for their livelihoods, either directly or indirectly. My family is no exception. My dad is the perfect example of one who started out carrying change, making change for slot machines, and worked his way up to become the chairman of a gaming casino. He is like many other Americans who worked long and hard to raise himself up by his own bootstraps.

Contrary to much of the dialog that will undoubtedly take place and already has in these hearings, the Nevada gaming industry works hand in hand with local and State governments or authorities for the benefit of all citizens. The Nevada gaming business is regulated not simply by State government dictating terms under which an industry operates. Instead, there is a true partnership and spirit of cooperation between the industry and government.

Has it succeeded? Well, virtually every gaming jurisdiction in the United States and many abroad have patterned or are attempting to pattern themselves after the State of Nevada. The facts are simple, and the most important fact is that we have achieved our present position by limiting unnecessary bureaucracy and regulation. It is a matter—simple matter of States' rights, coupled with responsible cooperation between government and business.

And let me further state that what Mr. Wolf said about the 10th amendment and regulating commerce or article I, section 8, that what we are talking here in the 10th amendment, remember, is we are talking about interstate commerce. The powers not specifically given to the Federal Government are reserved for the States and/or the people.

There is nowhere in the Constitution that gives the right to the Federal Government to regulate gaming. It is a States' rights issue, clear and simple. Nevada gaming industry provides 43 percent of $1.2 billion annually going into the State's general fund. About $215 million of that from gaming revenue is dedicated to the State's university system. Some $396 million goes to kindergarten through grade 12 educational programs. Another $316 million is devoted to State-sponsored human service programs.

Nevada isn't the only State that has turned its gaming proceeds into success for the overall community. In Missouri, taxes paid by the six boats produce $56 million for State universities and $98 million to elementary and secondary schools.

There are many other statistics that time does not allow. The point is the casino industry can operate successfully and responsibly without another costly, time-consuming and politically expedient array of studies.

Let's consider one final misperception. Nevada is not riddled with crime. In fact, so-called organized crime in the gaming industry is virtually nonexistent. FBI and other local, State, and Federal statistics bear this out around the Nation.

In a statement from Ron Asher, director of the Division of Enforcement for the State of Nevada, Mr. Asher said within the licensed gaming industry there is no significant impact on organized crime. I doubt that the people of your communities would voluntarily come to a dangerous or undesirable environment.

The most important ingredient in the success of any business or industry is that they maintain integrity with their customers. The gaming industry in Nevada and elsewhere, in cooperation with State and local governments, has succeeded in maintaining integrity within the industry. No Federal study can safeguard against that. It simply isn't necessary. Responsible State authorities can and will continue to do a great job without the need of Federal involvement.

Thank you, Mr. Chairman.

Mr. Hyde. Thank you, Mr. Ensign.

[The prepared statement of Mr. Ensign follows:]

Prepared Statement of Hon. John E. Ensign, a Representative in Congress From the State of Nevada

Mr. Chairman, I believe the state of Nevada's experience and record in the gaming industry speaks for itself so my message today will be very simple and brief.

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I come from a gaming family myself. Most Nevadans depend upon the gaming industry for their livelihoods either directly or indirectly. My family is no exception. My dad is the perfect example of one who started as a change maker, and worked his way up to a CEO in the gaming casino. He is like many other Americans who worked long, and hard, and picked himself up by his own bootstraps.

Contrary to much of the dialog that will undoubtedly take place in these hearings, the Nevada gaming industry works hand-in-hand with local state authorities for the benefit of all citizens. The Nevada gaming business is regulated not simply by a state government dictating terms under which an industry operates. Instead, there is a true partnership and spirit of cooperation between industry and government.

Has it succeeded? Well, virtually every gaming jurisdiction in the United States- and many abroad- have patterned or are attempting to emulate the Nevada system.

The facts are simple. . . And the most important fact is that we have achieved our present position by limiting unnecessary bureaucracy and regulation. It's a simple matter of states rights coupled with responsible cooperation between government and business. Allow me to share with you just a few results.

The Nevada gaming industry provides 43 percent of the $1.2 billion annually going into the state's general fund.

About $215 million from gaming revenue is dedicated to the state's university system.

Some $396 million goes to Kindergarten through Grade 12 education programs.

And another $316 million is devoted to state-sponsored human services programs.

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Let's consider one final misperception. Nevada is not riddled with crime. In fact so-called organized crime in the gaming industry is virtually non-existent. FBI and other local, state or federal statistics bear this out around the nation. In a statement from Ron Asher, Director of the Division of Enforcement for the state of Nevada, Mr. Asher said, "Within the licensed gaming industry, there is no significant impact of organized crime".

I doubt that the people from your communities would voluntarily come to a dangerous or undesirable environment. The most important ingredient in the success of any business or industry is that they maintain integrity with their customers. The gaming industry in Nevada and elsewhere have done that and have succeeded.

No federal study can safeguard against that. It simply isn't necessary. Responsible state authorities can, will, and are doing just that.

Thank you. I'd now be happy to entertain your questions.

Mr. HYDE. The gentlelady from Reno and elsewhere, Barbara Vucanovich.

STATEMENT OF HON. BARBARA F. VUCANOVICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mrs. VUCANOVICH. Thank you, Mr. Chairman and members of the committee.

You know, I was under the impression that I was invited by the chairman to testify in opposition to H.R. 497, and I now see that isn't the case. I am very disappointed at how this hearing has been engineered. Rigged might be a more accurate term. This hearing has grown from a minor hearing of questionable need into a media circus of even less value to the legislative process.

This committee was allegedly to look into the need for a study of the national impact of legalized gambling. We now have a three-ring circus with the main attraction being a mob bookmaker whose only insight into this issue is that legal gambling represents unfair competition to illegal gambling. I know you are the one who is supposed to be asking the questions, Mr. Chairman, but, tell me, what does this have to do with legalized gambling and what does this have to do with an unbiased study of the impact of legalized gambling?

The most disappointing thing to me is not just the fact that we were denied all information about who would be appearing today but, after being asked to testify, we were informed through a report in the New York Times that we would be a sideshow to Mr. Jahoda.

I have to tell you, frankly, this is an embarrassment for the Members of Congress who have chosen to come here today to speak against the bill, to be portrayed as defending the likes of Mr. Jahoda and his associates. I can't help but feel the committee is questioning my morals and my ethics by conducting the hearing in this manner. And I do apologize for any disrespect to the chairman or this committee, but I must say I feel you owe me and my constituents an explanation and an apology.

I would like to point out up front my two primary objections to this bill and say they are only two of many reasons I believe it is a bad idea. The first reason, is that this bill is a waste of taxpayers' money; and the second is that this bill repudiates the efforts being made by this Congress to remove the Federal Government from those areas where the local and State governments should have authority.

I find myself in the peculiar position of opposing a study which purports to be nothing but a harmless look at the gaming industry's national impact. Who, you ask, could be against a study? After all, that is the allure of this proposal. It is so harmless. It is only a study.

The authors of this legislation go to great lengths to point out they want only to have a study to provide States with a much-needed, unbiased source of information before the voters or the legislature make the decision to legalize some form of gambling. What strikes me as odd, however, is the inflammatory statements which accompany this plea for an unbiased review.

In letters sent by the sponsors of this bill, there is no end of negative statistics and reports that are brought out as reasons to have a study. I wonder why the States who have legalized gambling are not referring to these same reports.

I also wonder why the proponents of this study mention none of the benefits that communities have enjoyed as a result of legalized gambling. Never once have they mentioned the fact that Nevada has operated a prosperous and nearly scandal-free gaming industry for well over 50 years.

I could go on for some time about the benefits of legalized gambling to our States. Despite the rhetoric to the contrary, the real agenda of this effort is a complete Federal prohibition of gambling.

No amount of study is going to change minds on the propriety of gambling. Mr. Wolf opposes gambling and will continue to oppose gambling regardless of the findings of this Commission. The proponents of this study are not looking for facts, they are looking for vindication. You need only to listen to their speeches and read their letters asking for the support of the Commission to see this. The convenient excuse for this Commission is the supposed lack of information. The lack of information has not prevented them from making some pretty outrageous accusations about the impact gaming has made.

Quickly, this brings me to my second point of disagreement with Mr. Wolf. This legislation runs counter to everything we have been doing in Congress since January. It is Government paternalism at its worst. The sponsors of this legislation believe the States don't have the ability to make their own decisions and that the decisions they have made are foolish.

Forgive me if I sound a bit cynical, but it is very hard for me to take seriously a proposal so poorly thought out and so inconsistent with the goals of this Congress. When we have been told by our constituents to cut Government waste, reduce spending, and return decisionmaking to the local level, this bill makes absolutely no sense. Let's save the taxpayers a lot of money and grief and put a stake in the heart of this Commission before it haunts us for years to come.

Thank you, Mr. Chairman.

[The prepared statement of Mrs. Vucanovich follows:]

PREPARED STATEMENT OF HON. BARBARA F. VUCANOVICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. Chairman and members of the committee, thank you for inviting me to testify today in opposition to H.R. 497, the "National Gambling Impact and Policy Commission Act."

I would like to point out up front my two primary objections to this bill and say that they are only two of many reasons I believe this is a bad idea. The first reason is that this bill is a waste of taxpayers money, and the second is that this bill repudiates the efforts being made by this Congress to remove the Federal Government from those areas where the local and state governments should have authority.

I come before you today not only as a colleague but as a witness with real life knowledge of the gaming industry and its impact on local communities. I've lived and worked in a community with legalized gambling for 47 years and now have the honor of representing this same community here in Congress.

I find myself in the peculiar position of opposing a study which purports to be nothing but a harmless look at the gaming industry's national impact. Who, you ask, could be against a study? After all that's the allure of this proposal, it's so harmless. It's only a study.

According to the bill this study is to find out what impact legal gaming has on the economy, crime, addictive gambling, prisons, law enforcement, indian gaming and whatever else the commission decides it might want to study. Interestingly the bill does not call for any investigation into illegal gambling, apparently the authors don't consider it nearly as serious a problem.

The authors of this legislation go to great lengths to point out how they only want to have a study to provide states with a much needed "unbiased source" of information before the voters or the legislature make the decision to legalize some form of gambling. What strikes me as odd, however, is the inflammatory statements which accompany this plea for an unbiased review. In letters sent by the sponsors of this bill there is no end of negative statistics and reports that are brought out as reasons to have a study. I wonder why the states who have legalized gambling are not referring to these same reports? I also wonder why the proponents of this study mention none of the benefits that communities have enjoyed as a result of legalized gambling? Never once have they mentioned the fact that Nevada has operated a prosperous and nearly scandal free gaming industry for well over 50 years. I could go on for some time about the benefits of legalized gaming to our state. But I think two of the most recent studies I've seen say a lot for how we are doing in Nevada. Recently Reno was named by Entrepreneur magazine as the best small city in the country for small business. This seems to run counter to the claims that gaming wipes out all other economic activity. This past summer both Your Money Magazine and The Consumers Digest named Las Vegas as the top retirement spot in the Nation. That certainly doesn't square with the portrayal of cities with legalized gambling as crime ridden. Could it be that the sponsors have chosen to ignore any positive information? Could it be that their commission would suffer from the same point of view? Could it be that this is really just a very expensive method for them to document their case against legalized gambling under the ruse of an unbiased study? I believe it is and believe this committee should put a stop to this effort right here before we waste anymore of our money or time.

Despite the rhetoric to the contrary, the real agenda of this effort is a complete federal prohibition of gambling.

No amount of study is going to change minds on the propriety of gambling. Mr. Wolf opposes gambling and will continue to oppose gambling regardless of the findings of this commission. The proponents of this study are not looking for facts, they are looking for vindication. You only need to listen to their speeches and read their letters asking for support of the commission to see this. The convenient excuse for this commission is a supposed lack of information. The lack of information has not prevented them from making some pretty outrageous accusations about the impacts gaming has made.

It is hard to square the rhetoric with reality. How can they claim that there is a lack of information on the impact on gaming yet site in the Congressional Record no less than 28 studies and sets of statistics that reinforce their point about gaming being bad. The authors of this bill believe that by spending several million dollars of taxpayers money we will come to some truth about the nature of gambling which will guide the Congress. I don't think so, and at a time when we are looking for ways to cut spending, it would be indefensible to spend tax dollars on this ill-conceived commission.

This brings me to my second point of disagreement with Mr. Wolf and Senator Simon. This legislation runs counter to everything we have been doing in this Congress since January. It is government paternalism at its worst. The sponsors of this legislation believe the States do not have the ability to make their own decisions, and that the decisions they have made are foolish.

The House just repealed the speed limit and the helmet law. We voted to give welfare, food stamps, and soon Medicaid back to the states, but the authors of this bill think we ought to tell states whether they should have bingo or not. This bill is a throw back to the 1970's attitude of regulating everything that moves. Not only is it taking a paternalistic approach, but it creates a new bureaucracy in the process. The nine commissioners will draw salaries of $115,700 per year and the staff will each be paid up to $108,200 per year. No limit is given on the number of staff or the total budget for salaries, but there is an ominous reference to the issuing of subpoenas, which suggests to me a need for many attorneys. And as this committee knows, attorneys are not cheap. The bill also refers to the use of government personnel from other agencies and of course provides for travel. I guess studies don't come cheap either.

Forgive me if I sound a bit cynical, but it is very hard for me to take seriously a proposal so poorly thought out and so inconsistent with the goals of this Congress. When we have been told by our constituents to cut government waste, reduce spending and return decision making to the local level, this bill makes absolutely no sense. Let's save the taxpayers a lot of money and grief and put a stake in the heart of this commission before it haunts us for years to come.

Mr. HYDE. Well, I thank the gentlelady. I am somewhat dismayed by the tone of her remarks. She has validated the old axiom that there are no permanent friends, only permanent interests.

I would suggest that she stay and listen to the next witness and see if his testimony isn't relevant and instructive. I would like to remind my friend, the gentlelady, that he came to us. We didn't seek him out, and he came to us at great risk to himself and to his life. And I would be accused of covering up and turning away somebody who has been in the gambling business up to his ears for many years and having——

Mrs. VUCANOVICH. Mr. Chairman, illegal gambling.

Mr. HYDE. Pardon?

Mrs. VUCANOVICH. Illegal gambling.

Mr. HYDE. Yes, illegal gambling. That is right.

Mrs. VUCANOVICH. That is different from legal gambling.

Mr. HYDE. Sure, it is different. It goes on. It is different from the bingo game at your church and my church, vastly different, but is it part of the generic problem? I say we have a duty to hear him—to hear him. And it isn't rigged, and I didn't rig it or stack it. I have no disposition to be unfair to anybody. I have no concern other than to get the story out.

The man came to us, and he came to us at risk to his life. And, having heard his story, I think it is relevant. You may disagree, but don't attribute malevolent motives to me because I certainly have no interest in Mr. Wolf prevailing or you prevailing.

Mrs. VUCANOVICH. I understand that, Mr. Chairman. I just think that when you have illegal gambling making testimony when we are talking a study of legalized gambling is my understanding——

Mr. HYDE. The question is, is there a connection between legal and illegal gambling? That is the question. If there is, it is relevant; and that is what we expect to hear.

Mrs. VUCANOVICH. Thank you, Mr. Chairman.

Mr. HYDE. Thank you.

Mr. LoBiondo, the gentleman from New Jersey.

STATEMENT OF HON. FRANK A. LoBIONDO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. LOBIONDO. Thank you, Mr. Chairman and members of the committee, for the opportunity to address an important topic today—legalized gaming.

In recent weeks, some Members of Congress have spoken out about the morality of gambling. The legislation you have before you today is the product of those Members who oppose legalized gaming and want to impose that opposition on the 48 States that now have some form of legalized gaming.

While I respect my colleagues as thoughtful people, I fear that they are motivated by stereotypes and misinformation of the gaming industry. This bill, I believe, is the first attempt to establish a Federal policy commission that would eventually lead to the Federal Government making decisions for individual States. Let's be direct. The sponsors of this bill want to outlaw gaming, and this is their first step.

My colleague from Virginia, Mr. Wolf, has continuously singled out Atlantic City with wrong, misleading, or erroneous information to press his personal cause to outlaw legalized gaming; and I and, more importantly, my constituents are offended by this and these tactics. I asked to come before you today in order to tell the other side of the story in the hopes that, regardless of your personal feelings toward gaming, you will recognize that this issue belongs to the individual States and not the Federal Government.

I represent a district that includes Atlantic City, NJ. It was the collective decision of the people of the entire State of New Jersey to require a heavily regulated, strictly controlled casino industry to operate in one city of the State in return for making a financial commitment to the people of the entire State. Atlantic City is a perfect example of how a State, with the approval of its citizens, is the best entity to determine what, if any, type of gaming should be permitted and what conditions should be applied to that permission.

First, the law approving casinos in Atlantic City was approved by a statewide binding referendum.

Second, the law established two State government oversight agencies, the Division of Gaming Enforcement and the Casino Control Commission. Between these two agencies virtually every aspect of casino operations is very closely scrutinized, from background checks of casino employees to the types of games casinos offer.

Third, Atlantic City casinos must contribute to the betterment of the entire State. In an age when cities and States provide tax breaks to attract new industries, Atlantic City casinos are not only subject to all State and local taxes but must pay substantial additional taxes and fees. Among other things, an 8-percent tax on revenues dedicated to the casino revenue fund paid $262 million in 1 year alone to an account for low-income senior citizens. This fund pays the bulk of qualified seniors' prescription drugs. And casinos pay additional taxes toward the Casino Reinvestment and Development Fund that pays for economic development projects throughout the State.

Finally, New Jersey casinos directly generate 45,000 jobs. In fact, Atlantic City casinos provide roughly one-third of all the jobs in Atlantic County. And when related jobs are taken into account, another 35,000 New Jersey residents owed their employment to the gaming industry.

Gaming's opponents will tell you that Atlantic City casinos have increased the crime rate. This is simply untrue. The visitor adjusted crime rate, according to the WEFA group, a private consulting firm in Pennsylvania, are comparable to, and in some cases lower than, cities such as Atlanta, Nashville, and Orlando. I believe that our crime rate nationally is far, far too high, but there is no indication that Atlantic City casinos have contributed to that crime rate.

Gaming's opponents will also tell you that Atlantic City casinos have led to the economic decline in other parts of the city. The fact is that Atlantic City's economy was on the decline long before the first casino opened in 1978; and, if anything, Atlantic City casinos have brought about a welcome economic stability and, in fact, a resurgence to that city.

The point to all of this is that for Atlantic City and for the State of New Jersey casino gaming was the right answer to some serious problems. That does not mean that it is the right answer for Virginia or Illinois or Indiana. What is right in those States is for the residents of those States to decide. It is not for Washington to say.

I urge the committee to reject this bill and to let individual States decide for themselves what type of gaming, if any, should be allowed in their State, and it is an individual State's decision.

Again, Mr. Chairman, I want to thank you and the committee for allowing me to testify today.

Mr. HYDE. I thank the gentleman.

[The prepared statement of Mr. LoBiondo follows:]

PREPARED STATEMENT OF HON. FRANK A. LOBIONDO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

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While I respect my colleagues as thoughtful people, I fear that they are motivated by stereotypes and misinformation of the gaming industry. This bill is the first attempt to establish a Federal Policy Commission that will eventually lead to the Federal Government making decisions for individual States. And let's be frank—the sponsors of this bill want to outlaw gaming and this is the first step.

I asked to come before you today in order to tell the other side of the story in the hopes that you—regardless of your personal feelings towards gaming—will recognize that this issue belongs to the individual States and not the Federal Government.

I represent a district that includes Atlantic City, NJ. It was the collective decision of the people of the entire State of New Jersey to require a heavily regulated, strictly controlled casino industry to operate in one city of the State in return for making a financial commitment to the people of the State.

Atlantic City is a perfect example of how a State, with the approval of its citizenry, is the best entity to determine what, if any, type of gaming should be permitted and what conditions should be applied to that permission.

First, the law approving casinos in Atlantic City was approved by a statewide, binding referendum. Second, the law established two State government oversight agencies—the division of gaming enforcement and the Casino Control Commission. Between these two agencies, virtually every aspect of casino operations is scrutinized—from background checks of casino employees to the types of games casinos offered.

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Gaming's opponents will also tell you that Atlantic City's casinos have lead to economic decline in other parts of the city. The fact is that Atlantic City's economy was on the decline long before the first casino opened in 1978. If any thing, Atlantic City's casinos have brought a welcome economic stability to the city.

The point to all of this is that for Atlantic City and for the State of New Jersey, casino gaming was the right answer to some serious problems. That does not mean that it is the right answer for Virginia, or Illinois, or Indiana. What is right in those States is for the residents of those States to decide. It is not for Washington to say.

I urge the committee to reject this bill and let individual States decide for themselves what types of gaming should be allowed in their State. It is their decision.

Again, thank you for allowing me to testify today.

Mr. HYDE. Next we are graced with the presence of the senior Senator from Illinois, Paul Simon. Senator.

STATEMENT OF HON. PAUL SIMON, A SENATOR IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. SIMON. I thank you very, very much. I am pleased to be here.

I have introduced, together with Senator Lugar, a commission in the Senate just to simply take a look at the question. And Congressman Wolf and Congressman LaFalce have legislation here.

Very briefly, Mr. Chairman, early on in our history all States had some form of legalized gambling. When Abraham Lincoln was a member of the State legislature from 1834 to 1842——

Mr. HYDE. What State legislature was that, Senator Simon?

Mr. SIMON. That was the Illinois General Assembly in which Henry Hyde once served.

Mr. HYDE. That is what I thought.

Mr. SIMON. But all States had it, and then it got so involved in corruption that it was outlawed in all States with the exception of Louisiana. And then, in 1893, Louisiana had a major scandal; and it was outlawed there.

Forty-two States now have some form of legalized gambling. In Illinois, where it was outlawed, believe it or not, the State supreme court, which was heavily dependent on campaign contributions in those days, ruled that gambling on horse races or betting on horse races was not gambling because gambling meant pure chance and this depended on the ability of the horses and the skill of the rider. So betting on a horse race was not gambling. And so gambling, even though our State constitution said you can't gamble, it was ruled legal.

But we have a problem now. Three-fourths of our population lives within 300 miles of casino gambling. A little less than 1 percent of our population are addicts who have serious problems, but the proximity of a casino to where you live changes those statistics dramatically. They change from 2 to 7 percent.

Someone you and I know, Mr. Chairman, called me after I made a speech on the subject on the floor and told me the tragedy that happened in his family. My mother belongs to a Lutheran church in Collinsville, IL. A substitute teacher at the Lutheran school there who the family thought was using the money for rent and other family expenses didn't know anything differently until they came home one day and there was a note and she said, I will be in the shopping center parking lot. She had committed suicide there.

You know, I can go on with these kind of stories. They are out there. And what we are simply saying is, let's take a look at the situation.

People come along to State and local governments who are desperate for revenue; and they say, we are going to give you revenue without taxing anybody. That sounds very good. And on top of that, we are going to be very generous with campaign contributions. That is pretty hard for officials to resist.

First of all, I would point out there is an overpromising on what kind of revenue is going to be produced, and we disproportionately take from the poor. The Illinois lottery had a billboard in the part of Chicago that is desperately poor that you visited, Congressman Conyers, and with a big billboard saying, this is your way out, the Illinois lottery. Well, if they had a sign like that saying education or something like that, that would be fine. That is not the case.

Corruption has been part of this everywhere. Louisiana just had an experience. We have had, Mr. Chairman, two Illinois Governors who have gone to prison. You and I have known both of them, one of whom got involved in corruption because of legalized gambling.

What we are saying is, let's get the facts. Why is the gambling industry so passionately opposed to legislation that says, let's set up a commission and get the facts? That seems to me to be a reasonable request for the fastest-growing industry in our country.

Mr. HYDE. I thank the Senator. I know the upper chamber does not have the 5-minute rule, but you are not so distantly removed from the House that you don't remember, and I thank the gentleman.

Mr. SIMON. I thank you.

Mr. HYDE. The distinguished Senator from Nevada, Senator Bryan.

STATEMENT OF HON. RICHARD H. BRYAN, A SENATOR IN CONGRESS FROM THE STATE OF NEVADA

Mr. BRYAN. Mr. Chairman, thank you very much.

I find myself in somewhat of a difficult situation this morning. Mr. Chairman, frankly, my colleagues from Nevada and I feel that we were ambushed. We were told that this was a hearing to discuss a national gaming study proposed by Congressman Wolf. Now it appears that organized crime will be the central focus. Yesterday morning I learned for the first time after reading a column by Mr. Safire that organized crime would be a subject of the hearing and that a former mobster will be here testifying today.

I want to make it clear, Mr. Chairman, I am not here this morning as an advocate for the spread of gaming to other States. That decision should be made at the State and local level.

Nevada has chosen to allow gaming. Gaming has come to be the most important industry in our rapidly expanding economy. The choice to permit gaming should not be made lightly, however. In a business where the inventory is cash, there is a clear need for strong regulation.

Mr. Chairman, let me quickly address the legislation before the committee. The Wolf legislation is a thinly veiled attempt to validate a preestablished conclusion and a recommendation to prohibit gaming. It has been portrayed merely as a study. However, let me read what some of the critical provisions contain.

The bill sets up a Federal Commission and says the Commission will, and I quote, "formulate and propose such changes in those policies and practices as the Commission shall deem appropriate."

As a further indication of legislative bias, the Commission is directed to make an assessment and review of political contributions and influence of gaming businesses and promoters on the development of public policy regulating gaming.

Mr. Chairman, I think this is astounding. These are people who are involved in a legitimate, licensed industry who are now going to have their actions reviewed as a result of a contribution made to a political candidate.

Members of this committee are fully aware of lobbying and political contributions made by almost every major industry in the country, and I note in terms of its legitimacy that the National Republican Committee will be holding its western conference in my hometown of Las Vegas later this fall. Among those invited to attend are Speaker Gingrich, Senator Dole, and Senator Lugar.

Nevada has worked hard to make gaming a well-regulated, licensed, legitimate industry. We did it at the State level. We put the regulations in place, and we enforce them.

The State of Nevada will spend this year $20 million to regulate and enforce gaming. That includes more than 100 auditors and more than 200 law enforcement investigators and agents.

Nevada's largest casinos are run by publicly-traded corporations, traded on major stock exchange. The Hilton and ITT Sheraton are examples. In addition to qualifying under Nevada's strict gaming control laws, these corporations are subject to the full scrutiny of the Securities and Exchange Commission, the Justice Department, and the Treasury Department. Even more importantly, today's gaming companies, like other major corporations, must inspire confidence in the stock and bond markets and must perform for shareholders, hardly the type of atmosphere which could tolerate even a hint of the presence of organized crime.

Prohibition of gaming, Mr. Chairman, will not result in the end of gaming. Instead, it will turn illegal gaming into a growth industry without any regulatory controls at all. We do not need a massive new Federal bureaucracy to regulate the gaming industry, and I might note this is in real marked contrast to what I understand the prevailing philosophy of the leadership in this Congress has been talking about—that is, returning essential decisions to State and local governments, rejecting the premise that all wisdom resides on the banks of the Potomac.

The sponsor of the legislation before the committee today has made it abundantly clear that his goal is to prohibit gaming, riding the tide of a growing movement in the Christian Coalition and other religious conservative groups, seeks to identify gaming as a moral issue on the national level.

Let me conclude, Mr. Chairman, by saying I will be pleased to work with you or any of your colleagues to discuss any legitimate concerns that you may have, but I cannot stand idly by and watch a major industry be unfairly singled out as a morality issue.

And I thank the Chair, and I think we have complied.

Mr. HYDE. And while I don't want to interrupt the tempo of the opening speeches, I want to reassure everybody there is no attempt to link the legitimate gambling industry, which flourishes in Las Vegas and New Jersey, with illegality; but at the same time we want these hearings to be comprehensive. And to deny that there is an aspect, a downside, to any industry that deals in a lot of money with tremendous velocity is just wrong. And I would hope and pray and think and wish that people whose livelihood is involved in legitimate gambling would welcome the validation of their legitimacy. I am confident that this Commission, if it comes into being and it does its job fairly and honestly, will absolve the legitimate industry of any hint or taint of corruption and affix the criminality that is part and parcel of any big money, fast-moving operation where it belongs, which is not with the people you represent.

But I don't want to prejudge anything, but I just think in fighting this and assuming that we are trying to dirty up the legitimate gaming industry, I just tell you, I think you are wrong. That is just one man's opinion.

The gentleman from Indiana, Senator Lugar.

STATEMENT OF HON. RICHARD G. LUGAR, A SENATOR IN CONGRESS FROM THE STATE OF INDIANA

Mr. LUGAR. Thank you, Mr. Chairman.

As legalized gambling proliferates at breathtaking speed, it is touching the lives of millions of Americans. Thousands of communities across the country are faced with decisions about whether to establish casinos, riverboat gambling, parimutuel racing, off-track betting, and other forms of wagering. In the face of this explosive growth, I want to see the establishment of a temporary national commission to conduct an 18-month study on the effects of gambling.

I am privileged to work on this timely project with Congressman Frank Wolf and Senator Paul Simon. We need to know the answers to questions like what is the extent of gambling by teenagers, what is the impact of gambling establishments on other businesses, how does gambling affect crime rates, how does gambling affect low-income populations, and what links exist between gambling and organized crime.

One gambling industry lobbyist recently criticized our proposal by saying it is a States' rights issue. That argument is flawed for a number of reasons. The Federal Government continues its regulation of gambling on tribal lands; and, second, the recent growth of electronic gambling via the Internet could have serious interstate and international implications when people use personal computers to gamble across State lines and around the world. We need to learn much more about gambling via the Internet.

As a former two-term mayor of a vibrant Midwestern city, Indianapolis, it is clear to me that civic-minded folks facing the toughest decisions on whether to permit gambling are leaders at the local level, and they must do so in a vacuum of reliable, unbiased information, information desperately needed to make sound choices that will affect the social and economic futures of their community.

Many local leaders want to learn from the experience of other communities. Unfortunately, experts have found that many available studies were location specific, unbalanced or funded by gambling interests.

The Washington Post, in a September 22 endorsement of the gambling study commission proposal stated, and I quote, "Those pushing casinos in the communities make large claims about their economic benefits, but the jobs and investment casinos create are rarely stacked up against the jobs lost and the investment and spending foregone in other parts of the local economy. The commission study could be of great use to communities pondering whether to wager their futures on roulette, slot machines, and blackjack." End of quote.

A major reason for the astronomical growth of gambling is that State and local governments facing budget shortfalls are desperate for revenue. Another important disheartening factor is our failure as concerned Americans to raise important questions about the spread of gambling. Hearing of the gambling industry's promise of instant revenue, State and local government officials all too often accept gambling as a silver bullet solution to balancing their budgets without raising taxes.

Even if a State or community is reluctant to host gambling establishments, that can be drawn over the edge by the threat that gambling operations may locate in a nearby town or neighboring State. Studies have shown that casino operations have significant impact on neighboring economies, and for many local officials the legalization of gambling becomes an economic survival issue rather than a question of developing sound public policy.

As gambling gains a foothold in a community, however, it enervates the notion of work ethic. Gambling weakens our ability to teach our children the basic, if you will, of Cal Ripken-like values of hard work, patience, human achievement, and personal responsibility.

What is the message being sent to our children by clever television and radio commercials for lotteries that bombard us with messages that wealth is only a play away? It says, if you play enough, you can hit the jackpot and be freed from the discipline of self-support through a job or a long commitment to ongoing education.

This same erosion of personal responsibility is at the heart of family dysfunction, drug abuse, criminal behavior, and abortion. We cannot tolerate the get-rich-quick symbolism of gambling while pleading with our children to avoid other tosses of the dice that lead to unhealthy living and destructive behavior.

The gambling industry does not choose to confront these moral questions. It would like the gambling issue to be seen as an economic or establishment choice. But even in the economic realm the arguments for expanding gambling are weak.

Mr. Chairman, I note the red light. I appreciate very much your indulgence in allowing me to testify. I ask that a copy of my entire statement be included with the record of these proceedings.

Mr. HYDE. Thank you very much, Senator Lugar.

You mentioned Cal Ripken values. There are Dick Lugar, Paul Simon, Harry Reid, Senator Bryan, Frank LoBiondo, John Ensign, Barbara Vucanovich values, too, as I know you all—I left Frank Wolf out. Frank, I wouldn't slight you in the least.

[The prepared statement of Mr. Lugar follows:]

PREPARED STATEMENT OF HON. RICHARD G. LUGAR, A SENATOR IN CONGRESS FROM THE STATE OF INDIANA

Mr. Chairman, thank you for holding this hearing and making possible this brief testimony. I am pleased to be here with my colleagues, Sen. Simon and Congressman Wolf, to present testimony before the committee on this important matter.

Mr. Chairman, I would like to start not with research from a national expert on gambling or a lengthy recitation of statistics. I start, instead, with the simple words of ordinary people revealing the impact of gambling in their communities.

Earlier this month, at a hardware store in Staten Island's Oakwood Shopping Center, a woman tried out the state's new video "Quick Draw" Keno game. She told a **New York Times** reporter: "I came here a half an hour ago to buy milk and diapers. I'm still here. It's addicting. I play the daily number, but you have to wait until 7:30 to know. This is quicker -- five minutes -- it's like being in Atlantic City. I won a dollar. I bet $7. But I had fun."

And in Essex County, New Jersey, Assistant Prosecutor Fred Franco describes for the Washington Post the approach of some parents of teens who have substantial debts from gambling on sports: "When parents find out about this, their reaction is often, 'Thank God it's not drugs.' Many of them do not take it as seriously as they should. The parents, 99 percent of the time, will pay off the debt and don't want to get involved."

The April, 1995 Post article also states that, "according to police, parents have drained bank accounts, taken out second mortgages and cashed in individual retirement accounts after children were threatened for nonpayment of debts in the tens of thousands of dollars."

Mr. Chairman, let me just state that one lesson we can draw from these real stories is that gambling weakens our ability to teach our children the basic, Cal Ripkin-like values of hard work, patience, human achievement and personal responsibility.

The spread of gambling adds what to the moral fiber of our nation? It says that if you play enough, you can hit the jackpot and be freed from the discipline of self-support through a job or the long commitment to ongoing education. We should not encourage the 'get rich quick' symbolism of gambling, while urging our children to avoid other 'tosses of the dice' that lead to unhealthy living and destructive behavior.

Mr. Chairman, I testify in strong support of establishing a temporary national commission to conduct an impartial 18-month study on the effects of gambling. I am privileged to work on this timely project with Congressman Wolf and Senator Simon. As you may know, Senator Simon and I have written the chairman of the Senate Committee on Governmental Affairs asking for a hearing like this one to explore how such a non-partisan study would benefit citizens and public officials who are struggling with important decisions about gambling that will impact their communities.

We need to know the answers to questions like: What is the extent of gambling by teenagers? What is the impact of gambling establishments on other businesses? How does gambling affect crime rates? How does gambling affect low-income populations? and, What links exist between gambling and organized crime?

One gambling industry lobbyist recently criticized the proposal saying, "It's a states' rights issue." This argument is flawed for a number of reasons. First, the federal government continues its regulation of gambling on tribal lands. Secondly, the recent growth of electronic gambling via the INTERNET could have serious interstate and international implications when people use personal computers to gamble across state lines and around the world. We need to learn more about gambling via the INTERNET.

For the survival of our communities, our states and our nation, we as public officials have a commitment to assure that government at all levels continues to promote the common good and enhance the general welfare of each individual citizen. American communities that embrace gambling as a quick budgetary and economic fix are not likely to experience lasting economic and spiritual renewal. We should remember that long term growth and prosperity for our cities must be earned the old fashioned way -- through hard work, dedication and commitment to purpose. I believe, Mr. Chairman, if we put our best minds to work on finding ways to finance the needs of our cities and communities, we can continue to ensure a higher standard of living and a better quality of life for all Americans.

Thank you, Mr. Chairman. I would ask that my statement and news articles cited herein be made part of the record.

As legalized gambling proliferates at breathtaking speed, it is touching the lives of millions of Americans. Thousands of communities across the country are faced with decisions about whether to establish casinos, riverboat gambling, pari-mutuel racing, off-track betting and other forms of wagering.

In the face of this explosive growth, I want to establish a temporary national commission to conduct an 18-month study on the effects of gambling. I am privileged to work on this timely project with Congressman Frank Wolf and Senator Paul Simon. We need to know the answers to questions like: What is the extent of gambling by teenagers? What is the impact of gambling establishments on other businesses? How does gambling affect crime rates? How does gambling affect low-income populations? and, What links exist between gambling and organized crime?

One gambling industry lobbyist recently criticized the proposal saying, 'It's a state's rights issue.' This argument is flawed for a number of reasons. First, the federal government continues its regulation of gambling on tribal lands. Secondly, the recent growth of electronic gambling via the INTERNET could have serious interstate and international implications when people use personal computers to gamble across state lines and around the world. We need to learn more about gambling via the INTERNET.

As a former two-term mayor of a vibrant Midwestern city -- Indianapolis -- it is clear to me that the civic-minded folks facing the toughest decisions on whether to permit gambling are leaders at the local level. And they must do so in a vacuum of reliable, unbiased information -- information desperately needed to make sound choices that will affect both the social and economic future of their communities. Many local leaders want to learn from the experience of other communities. Unfortunately, experts have found that many available studies were location-specific, unbalanced or funded by gambling interests.

The Washington Post, in a September 22 endorsement of the gambling study commission proposal, stated that, 'Those pushing casinos into communities make large claims about their economic benefits, but the jobs and investment casinos create are rarely stacked up against the jobs lost and the investment and spending forgone in other parts of a local economy. The commission's study could be of great use to communities pondering whether to wager their futures on roulette, slot machines and blackjack.'

A major reason for the astronomical growth of gambling is that state and local governments facing budget shortfalls are desperate for revenue. Another important and disheartening factor is our failure as concerned Americans to raise important questions about the spread of gambling

Hearing of the gambling industry's promises of instant revenue, state and local government officials all too often accept gambling as the silver bullet solution to balancing their budgets without raising taxes Even if a state or community is reluctant to host a gambling establishment, it can be drawn over the edge by the threat that gambling operations may locate in a nearby town or neighboring state Studies have shown that casino operations have significant impact on neighboring economies For many local officials, the legalization of gambling becomes an economic survival issue rather than a question of developing sound public policy.

As gambling gains a foothold in a community, however, it enervates the notion of work ethic Gambling weakens our ability to teach our children the basic, if you will, Cal Ripken values of hard work, patience, human achievement and personal responsibility. What is the message being sent to our children by clever television and radio commercials for lotteries that bombard us with the message that wealth is only a play away? It says that if you play enough, you can hit the jackpot and be freed from the discipline of self-support through a job or the long commitment to ongoing education.

This same erosion of personal responsibility is at the heart of family dysfunction, drug abuse, criminal behavior and abortion. We cannot tolerate the "get rich quick" symbolism of gambling, while pleading with our children to avoid other "tosses of the dice" that lead to unhealthy living and destructive behavior. The gambling industry does not choose to confront these moral questions. It would like for the gambling issue to be seen as an economic or entertainment choice. But even in the economic realm, the arguments for expanding gambling are weak

Gambling-related employment pales when compared to other forms of employment such as manufacturing. Gambling does not produce a value-added product or reinvestment in the market economy. Other businesses in the region often lose as consumer spending for all sorts of goods and services shifts to spending at casinos and casino-related activities.

Long-term growth and prosperity for our communities is most often earned the old-fashioned way -- through hard work, dedication and commitment to common purpose If we put our best minds to work on ways to finance the needs of our cities and communities, we can continue to ensure a higher standard of living and better quality of life for all Americans

The New York Times

Keno Game Ushers In New Era Of Gambling in New York

Quick-Pay Game, Long Opposed, Makes Its Debut

By IAN FISHER

Bill Fox played the numbers in his birthday, his wife's birthday, the birthday of a grandson, and then for good measure plucked a few random digits from his head.

"Ahhh, it's a shot," he said after betting — and losing — $5 a short time after New York State's new Quick Draw keno game went on line yesterday morning.

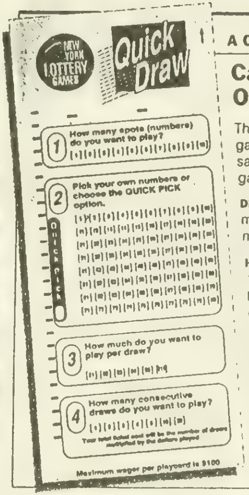
The little colored balls that bopped around the video screen at the Blarney Stone on Ninth Avenue, and at hundreds of other businesses across the state, bounced New York into a new era of gambling, the most significant expansion in the state lottery's 28-year history. Starting at 10 A.M. yesterday, the state began holding lottery drawings every 5 minutes for 13 hours a day in bars, restaurants, bowling alleys, Offtrack Betting parlors — even a hardware store or two — 2,250 by the end of the month, lottery officials project.

Gov. Mario M. Cuomo, who pushed for the keno game to help close several budget gaps, used to liken it to bingo. Pataki administration officials say it is simply another lottery game, no different from Pick 10. Critics, though, say that the game's pace makes it more akin to casino-style gambling — and more prone to pocket-draining abuse.

Librado Romero/The New York Times

Quick Draw, a fast lottery game, was introduced yesterday. In Manhattan, B. Cross, tried his luck at a Blarney Stone.

But Mr. Fox and other newly minted keno players were not interested in moralizing. Although the game seemed to get off to a slow start in the morning, as several bars in Manhattan complained that the equipment did not work or was still not installed, those who played early said they liked Quick Draw precisely because of the promise of a quick reward.


NEW YORK LOTTERY GAMES
Quick Draw
1 How many spots (numbers) do you want to play?
2 Pick your own numbers or choose the QUICK PICK option.
QUICK PICK
3 How much do you want to play per draw?
4 How many consecutive draws do you want to play?
Your total ticket cost will be the number of draws multiplied by the dollars played
Maximum wager per playcard is $100

A CLOSER LOOK

Casino-Style Gambling Or Lotto Game?

The drawings in the New York Lottery's newest game, Quick Draw, are so frequent that critics say the game is more like casino-style gambling than a lottery.

DRAWINGS Drawings are held every five minutes from 10 A.M. to 3 P.M. and 4 P.M. to midnight for a total of 150 drawings every day.

HOW IT IS PLAYED Players choose up to 10 numbers from 1 to 80, trying to match their selections to a pool of 20 numbers drawn by the Lottery. Players also choose how many numbers, or "spots," are played per game and the amount of money they will bet. Payoffs vary by the number of spots matched.

ODDS Odds can vary from 1 in 4 for matching one number in a one-spot game, to 1 in 8.9 million for 10 numbers in a 10-spot game.

Source: New York Lottery Games

"You don't have to wait," said Mr. Fox, a 46-year-old plumber who played a few games at his lunch break. "It's right there in front of you: you are a winner or a loser."

A small taste of the critics' fears played out at Handyman Hardware and Paint in the Oakwood Shopping Center on Staten Island, where three tables and a dozen chairs became a makeshift keno parlor.

"I came here a half an hour ago to buy milk and diapers," said Katherine Petersen, 37, a marine-insurance broker. "I'm still here. It's addicting."

"I play the daily number, but you have to wait until 7:30 to know," she said. "This is quicker — five minutes — it's like being

Continued on Page B2

Keno Ushers In a New Era of Gambling

Continued From Page B1

in Atlantic City."

"I won a dollar," she said. "I bet $7. I have no more money for the diapers and the milk. But I had fun."

New York is the eighth state to offer keno, a game that Republicans and Democrats alike had opposed in Albany for years.

But it was approved this year with apparent reluctance in the face of a nearly $5 billion deficit, as lawmakers scrambled to find money to prevent increases in college tuition or cuts in welfare and Medicaid. The game is expected to bring in $180 million in its first full year of operation.

"There was a line we were drawing in the sand, and we had to be more open, I should say, to new additional revenue sources," said Patricia Lynch, a spokeswoman for Assembly Speaker Sheldon Silver, a Manhattan Democrat who had been a staunch opponent of keno. "That's the bottom line."

Lawmakers, especially Democrats, were also courted aggressively by half a dozen lobbyists hired by the Gtech Corporation of West Greenwich, R.I., which runs the game on behalf of the lottery. The company will be paid 1.525 percent of the sales.

Except for the pace and setting, Quick Draw is played like any other keno-style lottery game. A player picks 1 to 10 numbers from a field of 80, filling out a card that is fed into a lottery machine by the bartender or other employee. The player bets $1, $2, $3, $4, $5 or $10 each game and may play a maximum of 20 games or $100 on each card. But players can effectively bet whatever they like by simply filling out more than one card.

Every five minutes, a central computer at the lottery's headquarters spits out 20 random numbers, which zip through phone lines and are displayed simultaneously on terminals around the state. Players win according to how many numbers they match and how much they bet: the highest prize for a $1 bet is $100,000, if the player bets on 10 numbers and matches all of them. If the player matches five numbers on that bet, he would be paid $2.

Like any other lottery game, players can redeem prizes of up to $600 on site. For larger prizes, they must file a claims form and receive their winnings from the lottery department.

The businesses that install keno games receive 6 percent of the total sales, with no extra commission for any winning tickets they sell. That percentage is less than what many establishments earn for food and drinks, but many bars and restaurants agreed to the game in the hope of attracting customers both to gamble and, they hope, to spend more on food and drink as well.

But many bars have turned down Quick Draw, both because of worries it may not pay off financially and because they feel it essentially turns their establishments into betting parlors.

"I think it demeans my restaurant and bar," said Don Berger, owner of the Riverrun in TriBeCa. "It smacks of Atlantic City, honky-tonk and we don't do that. I am not interested in that one bit."

In Massachusetts, which has run a keno game for a year and a half, a debate has ignited over placing keno terminals in convenience stores — which critics say brings gambling into places where children can watch. In New York, the law was written to exclude most convenience stores by requiring outlets to have a minimum of 2,500 square feet. But the game is being installed in some liquor stores, supermarkets, pharmacies and other outlets that do meet the space requirements.

It is too early to know whether any strong opposition to Quick Draw will emerge, but if the experience of other states is any guide, the game will probably be popular among those who play.

"People are going to gamble anyway, if not in New York, then in New Jersey," said Gino Gulli, a retired barber, as he placed a losing $2 bet in Keenan's bar on 231st Street and Broadway. The profits to the state, he said, were "good for the state for a good cause."

As he spoke, Bert Patel, a candy store owner, basked in the glow of a $10 win. "I just got my beer money back," he said.

Sports Betting Rings Moving Into Schools

Prosecutors Say Affluent Teenagers Attract the Mob to Upscale Suburbs

By Dale Russakoff
Washington Post Staff Writer

NUTLEY, N.J.—Standing tall above an impeccably manicured ball field, the biggest presence in a little downtown known for nickel parking meters and family owned shops like The Eight Ciccolini Brothers appliance store, Nutley High School looks as wholesome as the suburban community surrounding it.

But when three Nutley High students forced a 14-year-old schoolmate into a car, drove him to a housing project in Newark and dumped him there in February as punishment for failing to pay $500 in gambling debts, authorities uncovered a sophisticated betting operation run by student bookies who not only mimicked the Mob, but also worked with it.

Prosecutors have charged three students, two of them juveniles, with illegal gambling, kidnapping and theft by extortion. Three adults are charged with illegal gambling conspiracy for collecting debts and serving as intermediaries between student bookies and a New York-New Jersey crime family. The probe has moved beyond the students, prosecutors have said, and is heading "up the chain" of the crime family. More arrests are expected.

Nutley is only the latest in what has become a pattern of cases of organized crime infiltrating high schools, particularly in affluent communities, to capitalize on teenage gambling, according to police in several jurisdictions. Teenage gambling is attracting growing attention as a national problem; the first formal conference on the subject will be held later this spring at Harvard University.

"Sports betting is in every high school. It's just something kids do," said Durand F. Jacobs, a professor of psychiatry at Loma Linda University Medical School and an authority on teenage gambling. "And when there's big money, the big guys smell it and they come in."

In recent years, police have busted large betting rings in several upscale suburbs around New York City—including Madison, Conn., and West Orange, Paramus and Maplewood in northern New Jersey—and officers in each case charged or suspected that organized crime families were involved. In Chicago, authorities uncovered a gambling ring at a private high school after an 16-year-old's arm was broken for failing to pay. No charges were filed, according to the prosecutor who investigated the case, because student bettors refused to cooperate for fear of retaliation.

Police in Montgomery and Fairfax counties, the two most affluent in the Washington area, said they knew of no such cases in their jurisdictions.

In the New York area cases, students have run up debts in the tens of thousands of dollars, placing bets by telephone with bookies. In Nutley, bettors were given an 800 number to call for the "line" on football and basketball games, professional and college. They phoned in bets to student bookies, using the lingo of a gambling ring: "two times" was a $10 bet, "100 times" a $500 bet. Students could place bets all week without being asked to come up with cash. Monday was pay-up day.

If they won, the bookies delivered the cash. If they lost, the bettors had to pay, and if they didn't student bookies were under pressure from the professional bookmakers to collect, investigators said. Police said bets totaled $7,500 a week from about 25 students and about 25 adults. In New Jersey, it is a crime to run a bookmaking ring, but bettors are not liable.

A group of baseball players preparing for practice here the other day said the case has been blown out of proportion. "In reality, it was just some kids making a few bets, not some big thing like in New York," said team member Mike Greco. "If you didn't pay, they said, 'Make sure you do.' " Asked about the kidnapping, Greco and other players said the 14-year-old who was abducted was bigger than the three charged with kidnapping him.

But community and school leaders are taking the problem seriously, and recently held a teach-in for parents of high school students with police and New Jersey's Council on Compulsive Gambling. They were told that teenagers are twice as likely as adults to become compulsive gamblers, particularly in a state like New Jersey that sponsors gambling at casinos in Atlantic City, at racetracks and through a lottery. Authorities said it is common for students whose parents gamble regularly to fall into the habit.

Edward Looney, who heads the compulsive gambling council, said the mother of one of the juveniles charged with kidnapping has enrolled her son in Gamblers Anonymous. "He owed the bookmaker $5,000," Looney said. "He was under a lot of pressure and he did something crazy."

Essex County assistant prosecutor Fred Franco said that in an earlier investigation elsewhere in New Jersey, a 16-year-old high school student was found to have prostituted his girlfriend around school to raise money to pay his debts.

"She was pawned around the school, willingly," he said. "They both talked to us, but absolutely refused to cooperate out of fear. She said she did it to help him. He was threatened, his family was threatened, he had to get the money and he felt this was the only way to get it."

Franco said parents often pose a major obstacle to cracking such cases.

"The parents, 99 percent of the time, will pay off the debt and don't want to get involved," he said. "In Nutley, at least four parents paid $200 to $1,000. Obviously they feared who their children ultimately owed money to."

According to police, parents have drained bank accounts, taken out second mortgages and cashed in individual retirement accounts after children were threatened for nonpayment of debts in the tens of thousands of dollars.

"When parents find out about this, their reaction is often, 'Thank God it's not drugs,' " Franco said. "Many of them do not take it as seriously as they should."

WEDNESDAY, APRIL 12, 1995
The Washington Post

Mr. HYDE. Our last opening statement is—but certainly not in rank of quality at all—Senator Harry Reid of Nevada.

STATEMENT OF HON. HARRY REID, A SENATOR IN CONGRESS FROM THE STATE OF NEVADA

Mr. REID. Thank you very much, Mr. Chairman.

Mr. Conyers, distinguished members of the committee, we have heard a great deal since the elections last November about States' rights. Time and again the word has gone forth throughout the land that the stated mission of this Congress is to return power to the people and to the government entities closest to them, the States; and yet with the bill under consideration of this committee we would appear to allow an exception to that creed. We seem to be suggesting here that the States do not know enough about their own needs to understand the effect of gaming on their economies and social structures, even though during the past decade we have had over 200 separate studies of the effects of gaming.

Why has gaming proliferated across the country? The answer, Mr. Chairman, is very simple. The States themselves have chosen to allow it. The governments closest to the wishes of the people have chosen to allow gaming within their borders. More often than not, those decisions have come about because the people, through ballot questions or through their elected representatives, have approved gaming. Gaming is an area where the Federal Government has left the States alone. We in Nevada have fought for decades to keep the Federal Government out of what is unquestionably a State matter.

Mr. Chairman, I can speak with experience about this industry. I was chairman of the Nevada Gaming Commission from 1977 through 1981, during a period of time when our State vigorously pursued and rooted out elements of organized crime in Nevada's gaming industry. During my tenure, we closed a major strip hotel and assessed at that time the largest administrative fine in the history of this Government as a result of the investigations. I repeat, this was the largest administrative fine in the history of our country. Nevada has prospered as a result of a proper State—and I stress State—decisionmaking and involvement.

My friend from Indiana's assertion that there is Federal control of Indian gaming and that is comparable to individual State gaming is illogical. Indian tribes are sovereign and can only come under State control with the tribe's permission.

Keep in mind, Mr. Chairman, some who are in favor of this national study wish to make a moral argument against gaming. We have heard part of that here this morning. Well, we in this Congress have to legislate many things, but I would suggest that we should not be in the business of legislating morality. It simply cannot be done.

Keep in mind, Mr. Chairman, that States themselves have scrutinized the impacts of gaming on their economies and social structure. In the past several years, I repeat, more than 200 separate studies on the impact of gaming have been conducted. Many of these have been conducted by State governments, local governments or on their behalf.

Nevertheless, if this committee in its wisdom feels that another study of a national scope must be done, then I would hope that the answer does not come before the question. Pardon the pun, Mr. Chairman, but I hope that such a study would not be a stacked deck.

I would urge the committee, if it chooses to move ahead, to give serious thought to the contributors to such a study. I would hope that law enforcement agents, attorneys general, and regulators in places like Nevada and Atlantic City who have proven experience would be included in this study. But in the final analysis I believe in the direction that the States themselves have chosen to take. They know what is best for their people. The States should not be preempted under decisionmaking regarding gaming by this Federal Government.

Thank you very much, Mr. Chairman.

Mr. HYDE. Thank you, Senator Reid, very much.

And I thank the panel. You are all certainly welcome to stay and hear the next witness.

Prior to calling the next witness, the Chair has an important announcement. The next witness is appearing voluntarily, but the Chair has been advised by the Department of Justice that the witness's appearance here presents a substantial risk to his personal security. Any depiction of the witness's face would substantially increase that risk.

Therefore, in order to minimize the risk insofar as possible, the Chair directs all cameras, including television, video or still cameras, to be turned off or closed until the witness is seated. After the witness is seated, cameras that are in a position to capture only the back of the witness may be used. When the witness finishes testifying and before he gets up to leave, all cameras must be turned off or closed until the witness has left the room. Anyone failing to comply will be removed from the hearing room.

Now, we expect votes on the floor around 11:30. We expect a cluster of three votes, and so if we are—and I am sure we will be—well into this witness's testimony, he will have to be removed and then returned, so we will have to repeat the process. But I request urgently the press's cooperation in this request. It will take us a minute to rearrange the furniture.

The witness will please be seated.

Our next witness is William Jahoda, a former mob bookmaker from Chicago.

At the outset, I want to thank you, Mr. Jahoda, for coming here today. I know you have done so at considerable risk to your personal safety, and I appreciate your determination to appear before us under these circumstances.

Mr. Jahoda was a bookmaker for the Chicago mob from 1975 until 1989. During that time he has told us he has made as much as $400,000 a year from all manner of gambling operations.

Estimates of the betting action that Mr. Jahoda handled during these years ranged from a quarter to half a billion dollars. According to Mr. Jahoda, his participation in this activity consisted of approximately 80 percent sports bookmaking and 20 percent casinos and other activities. In short, Mr. Jahoda will give us an insider's view of the world of illegal gambling as practiced by the mob in Chicago.

Mr. Jahoda, we will be pleased to hear your statement, but first remain seated and please raise your right hand.

[Witness sworn.]

Mr. HYDE. Mr. Jahoda, will you please give us your statement and proceed.

STATEMENT OF WILLIAM JAHODA

Mr. JAHODA. Thank you, Mr. Chairman. Good morning, distinguished ladies and gentlemen of Congress.

My name is Bill Jahoda. I am 53 years old, a high school graduate and a divorced parent of three adult children. I have no religious ideology or political affiliations. I am, I believe, credentialed as an authority on gambling based on personal experience, observation, and research. I was "mobbed up," which is to say I was a member of organized crime on a full-time basis between 1975 and 1989.

During the last 10 years of that period, I was managing partner of the Chicago outfit's largest and most profitable illegal gambling enterprise. In that capacity, I generated net profits of at least $15 million of ill-gained, take-home income on behalf of myself and other members of the racketeering ensemble. Most of that $15 million was derived from sports bookmaking and gambling house casinos.

Our clientele or confederates included, in addition to approximately a dozen former professional athletes, members of the sitting judiciary, county sheriffs, city mayors, police chiefs, and numerous other appointed and elected public figures.

If it will serve as only a reminder to you, Mr. Chairman, and your colleagues, that the predatory nature of organized gambling reaches across all walks of life, I point out with no pride whatsoever that one of our targets in years past was a prominent member of the Illinois Statehouse whose losses over a 6-month period exceeded $175,000.

The axiom we believed in is foolproof, simple, and still in place today. It is this: Organized gambling is a cold "zero sum" game, mathematically designed so that the player must end up with zero and the house must end up with the sum.

But since organized gambling is nothing more than a cleverly marketed consumer fraud, I was concerned in the late 1970's and early 1980's that we would virtually cannibalize our own market share within a 10-year period. If we, as the mob, or Las Vegas, as corporate America, for example, were to bust out our gambling base—which by the way is what we are designed to do—how would we find new revenues?

In the case of the Chicago outfit, our long-range business interests were aided by an ambitious, though naive, ally, the statehouse. The land of Lincoln, like many States since, approved a variety of licensed gambling activities through legislation. From then on, there always existed one solid and dependable constant to those of us in organized crime—any new form or expansion of existing State-controlled, licensed gambling always increased our market share.

Simply put, the political dupes or stooges who approved riverboat gambling houses, lotteries, off-track horse betting sites, Las Vegas nights, et cetera, became our unwitting and, at least to my knowledge, unpaid pimps and front men.

Of the most benefit to us in the gambling underworld were, first, mass media advertising blitzes falsely promoting gambling as a glitzy opportunity or a healthy entertainment and, second, the resultant desensitization within the community from the reality that most forms of gambling, whether run by the mob, corporations, or the State are, by their very parasitic nature, an actual and potentially dangerous vice.

Today, licensed gambling in its many disguises is the fastest growing and most highly promoted con game in this Nation. If this rampant consumer fraud continues unabated and revenue growth maintains its pace, this new breed of legit wise guys will bust out many of our middle class citizens and most of the lower middle class within 15 years.

The reason is obvious. Organized gambling, whether licensed or illegal, manufactures nothing except smoke, false promises, and hard dollars at the expense of the unwary. Insiders in the industry, in private amongst themselves, describe their clientele as mooches, suckers, or marks. Their livelihood depends on making suckers out of us and our families. The American public is counting on you to prevent that fate after your commission to examine gambling goes into action.

Thank you very much, sir.

Mr. HYDE. Well, thank you, Mr. Jahoda.

[The prepared statement of Mr. Jahoda follows:]

PREPARED STATEMENT OF WILLIAM JAHODA

Thank you Mr. Chairman.

Good afternoon, Distinguished Ladies and Gentlemen of Congress, my fellow panelists and guests.

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Of the most benefit to us in the gambling underworld were:

(a) Mass media advertising blitzes falsely promoting gambling as a glitzy opportunity or a healthy entertainment;

(b) The resultant desensitization within the community from the reality that most forms of gambling --whether run by the State, corporations or the Mob-- are, by their parasitic nature, an actual and potentially dangerous vice.

Today, licensed gambling, in its many disguises, is the fastest growing and most highly promoted con game in this nation.

If this rampant consumer fraud continues unabated and revenue growth maintains its pace, this new breed of *"legit wise-guys"* will bust-out many of our middle class citizens and most of the lower-middle class within 15 years.

The reason is obvious: Organized gambling--whether licensed or illegal--manufactures nothing except smoke, false promises and hard-dollars at the expense of the unwary.

Insiders in the industry, in private amongst themselves, describe their clientele as "*mooches*", "*suckers*" or "*marks*".

Their livelihood depends on making suckers out of us and our families. The American public is counting on you to prevent that fate after your Commission to examine gambling goes into action.

Thank you.

Mr. HYDE. We will proceed under the 5-minute rule for questioning, and if we need a second round we certainly will have one.

Mr. Jahoda, for many years you supervised large-scale mob bookmaking operations in the Chicago area. In your statement you said that politicians who approved legalized gambling became the mob's unpaid front men. Tell us what you mean by that statement. In other words, how does the existence or expansion of State-licensed gambling increase the market share of organized crime? Wouldn't it siphon off some of the profits of illegal gambling?

Mr. JAHODA. On the contrary, sir, what it did was it created a brand new market for us.

The State of Illinois, unlike the mob, is allowed to advertise, to literally train a new generation of gamblers through the media, through press releases, through paid advertising campaigns. In essence, it created a curiosity about the product itself. We were there to fill that need, offering certain advantages that the State didn't, such as convenience because we are extending credit, and we are allowing our customers to simply call us on the phone instead of getting dressed and going, as an example, to the off-track betting site.

I left the Chicago area at the time that riverboat casinos became legal, and I imagine this created nothing but a tremendously large underground market because people don't have to go to the boats. They can simply go to a gambling house of their choice without the inconvenience of driving for that hour, that 2 hours, so to speak.

I particularly noticed a strong increase in our horse betting action from younger people who were getting exposed to both advertising and to the off-track betting sites that the State opened up. It expanded our market.

Mr. HYDE. Something for nothing has always been the great dream. It is a subset of the American dream, I guess, but isn't it a fact that if somebody gets into gambling and goes into debt, that is kind of a bottomless hole? Because you keep trying to get even and get ahead with the next score, and you keep borrowing and you keep borrowing and pretty soon you are into juice and your life could be in danger.

Mr. JAHODA. That is the illusion that gambling creates, the false promise that the next bet is going to make you that big score.

Mr. HYDE. You refer to gamblers as targets. That is an interesting use of the word. Why do you call them targets?

Mr. JAHODA. Well, I used the word target in reference to one particular high roller. Well, gambling is a predatory business. It is based on taking somebody's property, in essence, their money. So just as casinos compete for high rollers, players that have good credit lines and are known to gamble extensively, we would do the same thing on the street. If we knew that somebody had a reputation as a big horse bettor, for example, we would try to solicit his business.

Mr. HYDE. What do you mean by the parasitic nature of gambling?

Mr. JAHODA. Gambling doesn't create new money. What it does is it feeds off of existing money, so in that case gambling is parasitic by its very nature.

Mr. HYDE. My time is up.

The gentleman from Michigan.

Mr. CONYERS. Thank you very much.

I appreciate your coming here today, Mr. Jahoda.

Mr. JAHODA. It is my pleasure, Congressman.

Mr. CONYERS. What has caused you to reconsider your role in this matter and what kind of message do you have for people—parents, young people—who may be listening and thinking, you know, a little gambling isn't so bad; I mean, there could be a lot worse things going on? What do you say to people who think that we could be doing more important things with our time than talking with you about gambling today?

Mr. JAHODA. I am not sure I quite follow that question, sir; but, in any event, my feelings in terms of gambling have actually never changed. When I was in the business, I knew what it was. I knew the risks. It was my own ambition and greed that kept me into the business for all the years that I was in it.

But in terms of a change in attitude, there never was one. I always knew that gambling was an actual vice.

But to try to answer your question—and, first of all, I have tremendous sympathy for the citizens in your area that have got to cross that bridge to get into Canada to blow the hard-earned money that they are earning in Michigan. That is a real particularly tough, tough problem, and it must be very anguishing to you and many of your fellow constituents up in that particular area.

Again, I am not a religious man, as I said earlier, but children should learn the odds about gambling, particularly with high schools and up, because kids are invincible at that age, and they are subject to all the advertising and all the get-lucky glitz that is associated and the glamour that is associated with casinos and gambling action.

I have talked to a couple of high school classes, juniors and seniors, and they seem to get the message; but one problem I have noticed with the other people is that there is peer pressure to gamble today just as there was peer pressure to smoke cigarettes 30 years ago, you know, when I went to school.

Mr. CONYERS. Is there more peer pressure today for gambling?

Mr. JAHODA. Yes, there is, I honestly believe so, particularly in college.

Mr. CONYERS. Let me ask you about the association that people involved with illegal gambling have with elected officials. Let's talk about why you need to be in contact with police chiefs and county sheriffs and mayors and other elected officials.

Mr. JAHODA. Yes, sir. In our particular operation we needed to be in touch with sheriffs to get information on upcoming gambling raids, whether it would be to raid a casino operation or to raid one of our bookmaking operations. Now, that was all I was aware of with firsthand knowledge.

In terms of any other—and police chiefs the same thing. We would have police chiefs that would gamble with us and would also inform us of upcoming raids.

Mr. CONYERS. Let me ask you about any connections or understandings that you have about how gambling syndicates operate across the country. I mean, for example, would you know about a group operating in the West or in Las Vegas or in New York? Is there any kind of relationship or connection between gambling syndicates across the country?

Mr. JAHODA. I personally did not have any national connections, although I did have knowledge that there is a sitting national commission of 11 or 12 members in organized crime. Who they are, where they are, how it changes, I don't know.

Mr. CONYERS. Well, in other words, were there people like yourself doing the same thing across the country?

Mr. JAHODA. Oh, yes, certainly, even within Chicago itself. I ran one crew. The mob had dozens of crews; and I am sure that the same patterns existed from coast to coast, whether it was organized crime or just your local Allstate Insurance man who decides he is going to be a bookmaker for the football season.

Mr. CONYERS. Let me ask you the final question on my mind and that is, what would you tell us, as legislators, ought to be our goal in terms of regulating gambling, particularly now that it is here and that we suspect strongly that there is mob infiltration in some legitimate gambling operations? And you would agree on that, would you not?

Mr. JAHODA. Yes, sir.

Mr. CONYERS. What kind of goals should we have? We don't think we are going to stop gambling or eradicate it. How much control or supervision or oversight should we invest in this very important industry?

Mr. JAHODA. Speaking for myself, I can't say that I have the qualifications to answer that question. There will be others, I am sure, from the medical community, the law enforcement community that will give you much better and accurate information than I could.

I would certainly advise a moratorium until it is studied and you determine exactly which way to go with it, how to control it, how to tax it, how to monitor it, and how to also provide ways to help people who really get caught up gambling and destroy their lives and their careers.

Mr. CONYERS. Do you think we can ever have gambling in this country without having criminal involvement, mobsters involved in it?

Mr. JAHODA. Even if that were possible, sir—and I know corporate America does try to clean it up and from what I understand have done a tremendously good job of that and they should be commended—it still doesn't change the rules. Gambling is still a dangerous product, no matter who runs it. It is still consumer fraud. It doesn't matter if the mob is doing it or corporate America. If the mob is doing it and skimming on their taxes or corporate America is doing it and trying to get tax breaks or even rewarding its shareholders, the flaws are still there in the system, in the product itself. The product is flawed.

Mr. CONYERS. Thank you very much for your comments.

Mr. JAHODA. Thank you, sir.

Mr. HYDE. Thank you, Mr. Conyers.

Mr. McCollum of Florida.

Mr. MCCOLLUM. Thank you very much.

Mr. Jahoda, I would like for you to help me get a better grip on the connection between illegal gambling, organized crime, and legal gambling. I get the impression that there is a connection, and while you were running a shop for the mob in Chicago that you perceived that there is a relationship that the mob has with legal gambling and there is a relationship between illegal gambling and legal gambling. In other words, there are relationships. You started to describe some of those. Can you tell us what your thoughts are about that?

Mr. JAHODA. I cannot speak for any existing relationships today between the mob and legal gambling. I don't know of any links of that type.

Mr. MCCOLLUM. What about the connection between the idea of legal gambling and illegal gambling? You have indicated earlier you thought there was a connection, that it enhanced the business that you had by having legal gambling out there, that you got more opportunities for illegal gambling and there was a better climate for it.

Let me give you an example. In my State of Florida, we recently had, as Congressman Wolf testified before us a few minutes ago, a referendum on gambling. Our State law enforcement department and our attorney general both said one of the primary reasons they opposed allowing casino gambling in Florida was because they felt it would bring with it a lot more illegal activity. Why would they say that?

Mr. JAHODA. I understand your question. What happens is, because of the immense amount of money involved, in talking about cash environment with the casino, it attracts a lot of crime. It will attract every pickpocket. It attracts prostitution, grifters, arsonists, anybody. A casino is looked upon by the criminal community as a bank, and people have to bring cash to a casino for the most part, so it really attracts an awful lot of problems. It is a magnet to the criminal element.

Mr. MCCOLLUM. Well, let me ask you a question about the type of folks involved and the type of activity you were engaged in. The image of today's youth and crime is a street-gang image. That is because a lot of violent crime is that way. The image historically of "the mob" has always been kind of an organized white collar group behind the scenes doing these things and organizing it. Are street gangs involved? Were they involved with the activities that you were involved with in illegal gambling in Chicago?

Mr. JAHODA. Not at all to my knowledge, and I never heard anything to the contrary.

Mr. MCCOLLUM. How are the connections made to the customers with the type of work you were doing? How did you get your customers?

Mr. JAHODA. In my own particular case, I had a very high-profile, successful clientele. I dealt strictly with professionals. I would generally work on referred leads.

In other words, if there was a stockbroker who was a good client of mine, I would ask him for references from coworkers, and I would try to meet other players in a social environment such as lunch or after work or whatever and try to qualify that client and go from there.

Mr. MCCOLLUM. Did you have other people working for you or were you just a single operator?

Mr. JAHODA. No, I had, generally speaking, several dozen employees at any given time.

Mr. MCCOLLUM. And they would be doing what?

Mr. JAHODA. A variety of things. Some were full time, working on the telephones, taking bets. Most of them had a vested interest in the gambling operation or they had their own clientele and they were feeding their business into me, and I would share it on an equity position that would vary under different circumstances.

Mr. MCCOLLUM. What percentage of your time did you spend soliciting and finding new clients and customers?

Mr. JAHODA. Initially, at least 50 percent of the time; and it got down to the point where the business basically was sustaining itself. I would spend a lot of time—well, I would say half my time would be directly soliciting new business or servicing existing business.

Mr. MCCOLLUM. What kind of a cut did you have to give to some mob organization or report to somebody else and what could you keep yourself?

Mr. JAHODA. I was a direct partner of the Chicago mob. My end—for the most part of my career was I ended with one-third of the net profits. I had a partner named Rocky Infelise, who I think was initially an enforcer for the Chicago outfit, and he rose higher in the rank. He received a second third of the profits. And the third third went to, at that time, a gentleman named Joe Fariola, who was the No. 2 guy in the Chicago outfit.

Mr. MCCOLLUM. Thank you very much.

Thank you, Mr. Chairman.

Mr. HYDE. Before I yield to Mr. Schumer, I am asking his indulgence just to ask you one question.

Mr. SCHUMER. The chairman always has my indulgence.

Mr. HYDE. If somebody owed you money, how would you collect it?

Mr. JAHODA. We had a collection crew out there. I was fortunate—I have to be frank. In my career, nobody ever owed me money; but they always knew where I was coming from. That tacit message was always there. However, the mob did have collectors who did, through intimidation and occasional violence, collect money from other crews.

Mr. HYDE. Who is Ken Ito?

Mr. JAHODA. Ken Ito is a very notorious fellow in the sense that he walked away from a hit, from an assassination attempt on his life about 10 or 11 years ago. When he was little, he got shot at point blank twice in the back of the head and somehow managed to live.

He ran—I never met Mr. Ito. He ran a gambling game called Bolito, B-O-L-I-T-O or B-O-L-I-T-A, in one of the ethnic communities in Chicago; and he was paying a street tax to the mob for that privilege. Needless to say, after the attempt on his life he began immediately cooperating with the FBI and hasn't been seen in Chicago since except to testify in Federal trials.

Mr. HYDE. They shot him twice in the head and the bullets ricocheted off his head?

Mr. JAHODA. Somehow. Yes, that is correct, sir.

Mr. HYDE. Miracles do happen or it pays to have a very hard head.

I yield to the gentleman from New York, Mr. Schumer.

Mr. SCHUMER. Maybe they were very soft bullets, Mr. Chairman. In any case, I want to thank you for calling this hearing; and I want to say to Mr. Wolf and others that I think this bill is an excellent bill.

There are lots of different views of gambling. Some see it as harmless recreational activity; some see it as immoral and evil; many see it as a source of revenue; and some, of course, as you do, Mr. Jahoda, see it as a magnet to organized crime. The bottom line is very simple. Since there are so many different views and gambling is spreading, we ought to have a Commission to study it and see what effects are. I am sort of surprised at the vehement opposition of the gambling industry, because if there is nothing to hide and nothing to be afraid of, then we should have this Commission and let the chips fall where they may, plain and simple.

What I would like to do is, there are two points that I think seem to be true. I am not sure. I would like to make them, then ask you your views and some questions on those, Mr. Jahoda.

The first is, gambling is going to exist. No matter what we do, it will exist, and that it is a lot better to have it aboveground than underground. And so that is an argument for allowing gambling.

The second argument, though, is that because it is something of an addiction for many people that we ought to be careful in the ways that it is aboveground.

The advertising campaigns I find sickening. Now, we have a first amendment situation, obviously; but, you know, when I was in the State legislature, we had an OTB in New York State, and the idea was, instead of having the local bookies, let's have the revenue go to the State. Fine. Then they started putting ads on the TV that said, join the team. We have the New York Mets, the New York Jets, now let's have a new team, the New York Bets. This was government taxpayer money, encouraging people to gamble. I put in a bill to the legislature to stop it; and, frankly, even OTB, a city, State agency was too strong; and they managed to beat back the bill.

But I am worried about the advertising with the proliferation of gambling, although with the private sector I don't know what you do about that because we do have first amendment issues.

The second point that tempers my view of the first—that it is better to have it aboveground than below, because it is always going to exist—is maybe there ought to be some distance. You know, if you have to get in a car and drive 4 hours or take a plane at $300 and go do it, it is a lot better than having it on every street corner where people who might not be inclined to gamble just do it.

And so those are my two points of view, and I would like to ask you just a few questions on each. Those seem to me to be reasonable.

First, do you agree that it is better, all things being equal, if you have the same level of gambling, forget the second question, the advertising, that it is better to have it aboveground? Do you believe that the gambling industry can keep out organized crime and other things a lot better than if it were just underground?

Mr. JAHODA. I believe through licensing that the community can keep organized crime out of a legitimate gambling operation. But keep in mind we are not talking about legal gambling, we are talking about licensed gambling, and there is a dramatic difference. I don't know of any State where gambling is legal, including Nevada. You and I can't go to Vegas and shoot craps in the men's room at Caesars Palace. We are going to get arrested. If you have a license, you can operate, you know, a casino or what have you.

Mr. SCHUMER. Does licensed gambling, does it have to itself, not the ancillary effects—in your judgment, is the licensed gambling industry pretty clean in this country that stays away from—that keeps organized crime out?

Mr. JAHODA. I have no reason or evidence to the contrary. I believe that the industry itself has done an excellent job of policing themselves and screening their employees as well as their ownership.

Mr. SCHUMER. The other question is—let me just go to this because my time is expiring—how do you deal with the issues of advertising, of glamorizing? You cannot say 16-year-olds can't see or read the ads or 14-year-olds. How—this is something that I have wrestled with. That is one of the reasons I think the Commission is a good idea.

Mr. JAHODA. I couldn't be——

Mr. SCHUMER. You know the first amendment, the commercial first amendment, everyone has the right to advertise. What is your view on that?

Mr. JAHODA. I don't know the law, sir, but I agree with your stance completely. I think that, No. 1, all gambling ads should be subject to truth and fairness standards that do exist.

No. 2, I think a lot of gambling advertisements should be banned, just as we ban tobacco advertising, just as we ban beer and hard liquor advertising. I think it has been established that gambling—once we have the courage to admit this is a vice, no matter how it is disguised, just as smoking is a vice, just as booze is a vice, restrict it on the identical basis.

Mr. SCHUMER. Finally, just this idea of distance—do you agree that it is probably not a good idea to have a slot machine on every corner? And I don't mean to be rhetorical here. That, for instance, my State is thinking about gambling but not in New York City but up there in the Catskills and up in Niagara Falls, that at the very least there ought to be some distance so your immediate impulse to gamble sometimes cannot be fulfilled without some effort on your behalf, on that person's part. Does that make any sense to you? You know much more about it than I do.

Mr. JAHODA. It is a position that I agree with, and I always have. However, manufacturers of slot machines disagree with it.

Mr. SCHUMER. I wonder why.

Mr. JAHODA. They do want a slot machine on every corner from coast to coast, and they won't stop until they do unless people like yourself stop them.

Mr. SCHUMER. OK. Thank you, Mr. Chairman.

Mr. HYDE. Mr. Schumer, I understand they are working on a slot machine that takes wristwatches.

The gentleman from Pennsylvania, Mr. Gekas.

Mr. GEKAS. I thank the Chair.

I must confess, I am not sure of what your message here is to us today. You say in your original—your written statement, the one from which you testified, you warn us it appears, on licensed gambling, that it is the fastest growing and most highly promoted con game in this Nation. You are warning us that we ought to be wary of the expansion of licensed gambling because it produces a class of suckers and targets and that the legalized gaming States and communities are con artists inadvertently or unwittingly.

Well, it seems to me that that makes you an unwitting shill for the rackets, in a way. Follow my logic. You tell me where I am wrong. That if you are condemning licensed gambling, which you are, warning us on that, the result that you would like to see then is do less of that or watch it or get away from it. And that leaves a giant loophole for the rackets to reenter where perhaps licensed gambling in some ways was able to dig into the activities of the rackets. How do you dispute my logic?

Mr. JAHODA. Well, first of all, that is not my message at all, sir. My message applies to all gambling, whether it is legal, illegal, licensed, unlicensed, and I will tell you what has happened as a result of the expansion of legalized gambling, no matter who runs it, is that illegal gambling is running rampant because police don't enforce the laws that are on the books anymore.

It is very hard to get a sympathetic jury when the State arrests, let's say, me for running a crap game, and it is very hard to convince a jury, well, gee, it is all right for the State of Illinois to do it but the guy down the street that does it, we can't put him in jail.

What I would like to see done is more of the laws that are on the books now enforced, including making it tougher for guys in the line of work that I used to be in who now can operate with a lot of impunity.

Mr. GEKAS. Then licensed gambling makes no difference in your situation. If we didn't have licensed gambling, we would still have the problem of enforcing the laws against racketeering and bookmaking and all that, isn't that correct?

Mr. JAHODA. That is correct. My point is it is the expansion of licensed gambling that is making it easier for those in the illegal gambling community to work without pressure from police departments. You can't even get arrested for gambling in this country, for bookmaking in this country anymore.

Mr. GEKAS. May I ask, what do you do now, what is your profession, what is your occupation?

Mr. JAHODA. At the moment, I don't have one, sir. Until very recently, this year, I have been testifying for the Government. I testified at the last case early this year. I will be testifying for the Government next week at the sentencing hearing. I hope to find some institution that can use my services, whether it is an——

Mr. GEKAS. Like Gambling Anonymous?

Mr. JAHODA. I have talked to some folks at Gambling Anonymous.

Mr. GEKAS. Do you gamble?

Mr. JAHODA. No, I never had the habit.

Mr. GEKAS. Never had the habit?

Mr. JAHODA. No.

Mr. GEKAS. I am trying to gain some benefit out of your testimony. I can't tell whether you think that licensed gambling should not be expanded. At the same time, if you are saying it should be reduced, then we should enforce the law against illegal gambling but licit, proper gambling prevents law enforcement of racketeering is something that you are saying.

I am not impressed with the value of what you are attempting to convey to us except that gambling is a vice and that we ought to be wary of the inroads that gambling is making. I could have said that, too. I could have traded places with you and said the same things. I am not sure what the message is. Thank you.

Mr. HYDE. Well, I thank the gentleman for his critique. I have a contrary view. I think his testimony has been very valuable. The gentleman from—I am sorry, the gentleman from Texas, Mr. Bryant.

Mr. BRYANT of Texas. Thank you.

Mr. Jahoda, just to let you respond to the last comment made, is it your testimony that legal gambling causes an increase in illegal gambling?

Mr. JAHODA. That has been my experience, yes, sir.

Mr. BRYANT of Texas. I assume that is the whole point of your being here today?

Mr. JAHODA. It is one of the points. I also wanted to point out somewhere the societal damages that gambling does, though again I am sure you will have higher authorities than me on it, but personally on my shift I am aware of at least six suicides throughout our clientele. I had a role in three murders during the course of my criminal career. I have had tremendous—I have seen a lot of my clients end up in jail. They turn into embezzlers to pay their gambling bills. There is such a high incidence of white-collar crime among gamblers, high incidences of divorce and troubled marriages, people blowing their houses, what have you. It is a very destructive product.

Mr. BRYANT of Texas. Do those family and personal tragedies also occur with regard to legal gambling?

Mr. JAHODA. Yes, sir. I am talking about the industry as a whole, whether it is—in addition to my own personal experiences as a bookmaker, but you have got the same problems with gambling, exactly right, sir, whether it is the legal gambling or illegal gambling, because it is the same people.

Mr. BRYANT of Texas. You say it is the same people?

Mr. JAHODA. It is the same client base, the same person who is going to bet with me is also the same fellow that is going to get on a plane and fly to Vegas or go to the Indian reservation.

Mr. BRYANT of Texas. I think one of the most regrettable trends of the last 10 to 15 years has been the rush of States to adopt lotteries in order to find an easy way to raise money instead of facing the public and saying, we are either going to have to raise your taxes or cut services, so make your political decision. So I admit that that is where I am prejudiced.

But I would like to ask you what the impact on illegal gambling operations has been from the proliferation of legalized State lotteries.

Mr. JAHODA. I got a lot of echo there. Did you say State lotteries?

Mr. BRYANT of Texas. Yes, what has been the impact on illegal gambling operations from the proliferation of State-sponsored lotteries?

Mr. JAHODA. Well, again, it is another instance where the State lottery did increase our client base. When the lottery first came out in Illinois in the late 1970's or early 1980's, we used to book it at a $10 minimum per number, and we offered odds higher than the State did. The State was offering the equivalent of 500-to-1 odds. We were offering 700-to-1 odds. We developed a little bit of a market with it. But what it did was exposing people to lottery tickets. Once they began increasing their buy, we could convert them to sports gamblers.

One thing about the lottery, at least in Illinois, in my experience, is that the effect is more felt on the middle class or the poor; they are more inclined to buy the lottery tickets. This was not our normal market. We normally wanted a bettor that is going to bet at $100 a phone call, so to speak, but the lottery did increase our client base to a degree.

Mr. BRYANT of Texas. Thank you. I have no further questions.

Mr. HYDE. I thank the gentleman. The gentleman from North Carolina, Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman, and not unlike you, Mr. Jahoda, I think your presence here will indeed be helpful to us. I think you bring an arsenal of experience, an expertise in this area, and I thank you for being here.

Mr. JAHODA. Thank you, sir.

Mr. COBLE. In your earlier statement, Mr. Jahoda, you used a term that is unfamiliar to me. I believe you said for years you had been "mobbed up." Was that the word?

Mr. JAHODA. That was the phrase, sir, yes, sir.

Mr. COBLE. Meaning associated with the mob, I guess?

Mr. JAHODA. That is correct, sir.

Mr. COBLE. It is an interesting term I had never heard before. I was going to pursue what the gentleman from Pennsylvania did. I was going to ask if during the time that you supervised your crew if you, in fact, were involved in gambling yourself, and you said, you answered that in the negative. I can see how that would be self-defeating. If you are supervising a crew and then you become addicted to gambling, that would not be a good mix, I wouldn't think.

Mr. JAHODA. Not in my opinion, sir.

Mr. COBLE. I have read, Mr. Jahoda, I can neither refute nor confirm this, perhaps you can, that there are three stages of gambling. One, enjoyment or pleasure; the second phase, habit; the third phase addiction. That makes sense to me that it would probably go through those three phases.

First of all, do you agree with that, based upon the people you have seen?

Mr. JAHODA. I am not medically qualified to answer that, but what you say makes perfect sense, and it certainly sounds possible.

Mr. COBLE. Well, I was going to ask you to extend that one step further. During your many years of experience supervising your crew, collecting debts, et cetera, what percentage of your clients, the people who gamble, with whom you associate, what percentage of those folks would you put in the addiction phase?

Mr. JAHODA. I would have to say with our clientele it was probably close to 15 percent, but you have to consider that these are people that are gamblers in the first place. In other words, you can't apply that number to the general population.

One of the problems with addiction and gambling that I have noticed, and I have certainly met a few people that I would qualify as addicts, and even when I was in the business I did steer a few players that went broke into Gamblers Anonymous. The problem with gambling, though, compared to any other addiction, such as alcohol or narcotics is with a gambler, it is hard to see the symptoms, and you are generally dealing with a very educated person and a highly successful person who is addicted to gambling, and you never see it until that person is broke, because with a gambler the only fuel is money whereas with an alcoholic, I mean, sooner or later he is going to be throwing up over his shoes or a junkie is going to pass out in the bathtub, but with somebody hooked on gambling, you never know they are in trouble until they are broke.

Mr. COBLE. Mr. Jahoda, when you go about enforcing collection—let's assume that I am indebted to you and your crew in the amount of $5,000. Would you follow the same course in enforcement as opposed to one who owed you $25,000?

Mr. JAHODA. Again, that is a hypothetical with me, and I am not trying to be evasive here. I just never had that experience. I never had a client owe me money where I had a problem collecting. I would have a gentleman who owed me $5,000, he would pay me what he could afford when he could afford it. I do know of guys that were purely collectors and that were used to intimidate and to harass people and extort people for gambling debts.

Mr. COBLE. Merle Haggard, the country balladeer, once recorded a song, Mr. Jahoda, entitled the "Kentucky Gambler." He depicts the man who abandons his family and goes off to Nevada to win his quick fortune, and in the concluding words of the song, Merle tragically announces, "but a gambler loses much more than he wins," and I think that is obviously what you have told us today. I thank you, sir, for being with us.

Thank you, Mr. Chairman.

Mr. HYDE. I thank the gentleman. The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman. I wanted to follow up a little bit on the questions by the gentleman from Texas in terms of the lottery.

You answered generally what the effect of a lottery has on gambling generally. It gets people in the habit and you can convert them to something else. Specifically, what have you found that the legal lottery does to a numbers racket?

Mr. JAHODA. I don't really have that background, Mr. Scott. It is my understanding that it has increased the numbers racket or at least that was the case in Illinois or it has changed the numbers racket to where in the illegal gambling community they set up their own lottery system and they pay more money than the State pays out.

Mr. SCOTT. It would seem that people would be reluctant to get involved in that when they can have, if they want to buy a number, they can do it with the State and avoid the contact with criminal elements, and you haven't found that at all?

Mr. JAHODA. I just don't have the experience, sir. As I said, the lottery market was an entirely different one than I was active in.

Mr. SCOTT. Regulated casinos, what impact does that have on illegal gambling operations, and operations, I don't mean just the guys playing poker amongst themselves, I mean an organized, an organization making money from people playing poker or other gamblers playing cards?

Mr. JAHODA. Anytime gambling became legal and it became promoted, advertised, and promoted, it always increased our client base. There was just no exception.

Mr. SCOTT. Horse racing, the same way?

Mr. JAHODA. Yes, any product.

Mr. SCOTT. No further questions, Mr. Chairman.

Mr. HYDE. I thank the gentleman.

We have a vote on the floor. I was told that there were going to be three votes together, but this signal doesn't appear that way. Let us recess for the vote, and lunch is intervening, too. I suppose let us resume, try to resume at a quarter to one.

Mr. MOORHEAD. Could I ask one question?

Mr. HYDE. Yes, the gentleman from California wishes to ask a question.

Mr. MOORHEAD. You know what bothers me is that now gambling is available in every store on every corner in the United States with these lotteries that the public has set up. We are teaching a lot of people to get involved in gambling, and a lot of people that never would have touched it before, when it was illegal they wouldn't be involved with it. They had to go out of their way to go to Las Vegas or they might go once a year or twice a year, but now they are teaching them to get involved almost daily, people that don't have any money or are on welfare——

Mr. JAHODA. It is sad, it is almost impossible to buy a loaf of bread in this country or a gallon of milk without tripping over 16 lottery machines.

Mr. MOORHEAD. Aren't we getting a lot of people into the habit of gambling that are going to go wherever they can to spend their money on gambling?

Mr. JAHODA. There is no question about it, Congressman Moorhead. You are 100 percent right. It is an absolute embarrassment and a disgrace.

Mr. MOORHEAD. Thank you. I appreciate your coming.

Mr. JAHODA. It is my pleasure, sir.

Mr. MOORHEAD. I think this is something we have to learn, because to me public gambling sponsored by the State is a way of stealing money from the poor and not doing very much help for our national interest.

Mr. HYDE. I thank the gentleman.

I am informed that there will be three votes and the reason the clock is just two bells is they are going to each be 15-minute votes.

Therefore, it is unrealistic to try and come back at a quarter to one. We will resume 15 minutes after the last vote, whenever that is.

Ms. JACKSON LEE. Mr. Chairman, will this witness be back? I would like to ask him some questions.

Mr. HYDE. You betcha.

Ms. JACKSON LEE. All right. Thank you.

Mr. HYDE. Would the cameras be turned off, please, and would everyone remain seated until the witness is escorted back. We will continue with you, Mr. Jahoda, after we get back.

Mr. CHABOT. Just a question about when we are reconvening, 15 minutes after the last vote in this series or of the day?

Mr. HYDE. Yes, in this series, yes, yes, not the last vote of the day. All right. The committee will stand in recess.

[Recess.]

Mr. HYDE. The committee will come to order.

It is unfortunate that there is a very important bill on the floor, the defense conference report, the defense appropriation conference report, but I don't want to keep Mr. Jahoda any longer than we absolutely have to.

So, Mr. Coble, had—you had finished questioning the witness?

Mr. COBLE. I finished, Mr. Chairman.

Mr. HYDE. Mr. Schiff, the gentleman from New Mexico.

Mr. SCHIFF. Thank you, Mr. Chairman.

First, Mr. Jahoda, thank you for testifying. I understand you are doing so voluntarily. Although I now represent a district in New Mexico, I was born and raised in Chicago on the north side, and when one uses the term "mob" for Chicago, it conjures up views of the Al Capone days, and Big Jim Thompson days. But I take it with all the security here, that is just not something from the 1930's and 1940's.

Mr. HYDE. Would the gentleman yield? You mean Big Bill Thompson.

Mr. SCHIFF. Bill Thompson, I'm sorry.

Mr. HYDE. Throw away your hammer, get a horn.

Mr. SCHIFF. I lived out of Chicago for more than 25 years. Thank you for dusting off the memory. I am glad the Chair immediately knew who I was talking about, however.

Mr. JAHODA. Yes. Jim Thompson is a former prosecutor in Illinois and, as you know, the former Governor.

Mr. SCHIFF. Former Governor, right.

Mr. JAHODA. To answer your question, the mob is alive and thriving in Chicago. The change in leadership was constant from Al Capone to the time I left the Chicago area. I have no reason to doubt that it is any different as we speak today.

Mr. SCHIFF. Does it still operate in as violent a nature that it had the reputation in the older days?

Mr. JAHODA. It does, without question. There had been 1,100 and some odd murders since the Chicago Crime Commission was started that were attributed to the mob, and until the early part of this year there has never—there had never been one case where a mobster had been convicted of either murder or murder conspiracy.

Mr. SCHIFF. If I can move to the area of gambling in which you re operating, I think you said in your opening statement that among the people who gambled with you were professional sports figures.

Mr. JAHODA. That is correct, sir.

Mr. SCHIFF. Did they gamble on their own sport?

Mr. JAHODA. No; let me qualify it. They all gambled with me after their retirement from sports itself, and they rarely bet on their own sport. I only had one professional athlete who was active and who did bet on his own team, and he was a very small bettor in a sport that I didn't do—that I didn't solicit; it specifically was hockey; and occasionally he would bet $100 on a hockey game. So it was obvious it was no sort of a fix.

Mr. SCHIFF. I would like to ask you, you've already made your overall views of gambling very clear, and we understand that we are talking about illegal gambling in the sense of violating the laws of the State to be operating.

But having said that, I would like to ask you this question. Was what we are calling mob gambling, was it otherwise the same as licensed gambling? I mean, were the rules the same and the risks the same, or were the rules in some way different?

Mr. JAHODA. That is a very good question, Congressman. The rules were for the most part identical with Las Vegas. They were identical with legal gambling. In other words, we offered the same product that the State would or corporate—or a corporation would or, to an extent, a charity would.

Mr. SCHIFF. So more or less it was the same game that would have been allowed where licensed gambling was legal.

Mr. JAHODA. Correct.

Mr. SCHIFF. That leads to the next question. You have testified that legal gambling helped illegal gambling by promoting interest in gambling generally. If all gambling were legal, in other words, where all gambling is licensed, not just a lottery here, a point there, would that, in your opinion, drive out illegal gambling completely?

Mr. JAHODA. If gambling were licensed—and keep in mind, licenses generally only go to a select few. I am not talking about lotteries now, I am talking about whether they are riverboats or land-based casinos. If it were licensed from coast to coast, it would increase illegal gambling, and the reason—the reason it would is a simple one. They would educate the public. They would encourage the public to bet every minute of every day, and just as there would be, let's say, a casino wherever the market would support it, you have got your illegal part-time bookmakers that are providing the same product or running an illegal casino and offering—offering services that the licensed community cannot, particularly—though they do extend quite a bit of credit.

Mr. SCHIFF. I have to interrupt, sir, because my time——

Mr. JAHODA. I beg your pardon.

Mr. SCHIFF. My time is up, and I want to get in a few more seconds. I thank you, though.

Mr. HYDE. Without objection, the gentleman is granted an additional 2 minutes.

Mr. SCHIFF. All right. I thank the Chair.

Did you want to finish your answer then, Mr. Jahoda?

Mr. JAHODA. Well, there is no doubt in my mind that the legalization of gambling will increase the illegal market, without question.

Mr. SCHIFF. Because the illegal market can provide services that the licensed gambling does not provide, you mean.

Mr. JAHODA. Correct. Particularly the extension of credit and convenience, betting over telephones, things of that nature. And the expansion of legal gambling, as I indicated earlier, tends to develop new players.

We have to be realistic. The gambling industry right now is trying to devise ways to beat the next generation. Right now they are working on how to beat—how to get the money from our children and our grandchildren. They have to do this because it is the only way they can keep their business growing.

Mr. SCHIFF. Well, I thank you, sir.

I am going to use the rest of my time for a brief observation about the bill before us. I have mixed emotions about gambling. On the one hand, I have never supported a lottery, though the polls constantly show that most people do. And my main objection is not gambling as such but the fact the State is promoting gambling.

I see, when I came here to Washington, the State of Virginia advertising, "Why don't you go gamble?" I think that is an abhorrent practice for government. On the other hand—I have a deceased uncle who spent his whole career in Las Vegas, if that tells you something. He said obviously Las Vegas was not built by losing. On the other hand, I am reluctant to tell people what to do with their own money and their own free choice.

I think that leads me to believe, subject to some of the proposals for modification of this bill, like from the Indian Gambling Association, who, from the written testimony, I think gave some good ideas, I think this bill would be a good idea.

Mr. Jahoda, did you want any final response on that?

Mr. JAHODA. No, Congressman, other than the fact I agree with you. It is a little embarrassing when the Government gets so desperate for money that they—that they encourage their citizens to gamble and profit so highly on it because they just can't seem to find any other answers, and I certainly wish you well in whatever decisions you make, sir.

Mr. SCHIFF. Thank you, sir.

I yield back, Mr. Chairman.

Mr. HYDE. Well, I thank the gentleman, and if the gentleman would just yield to me.

Mr. SCHIFF. I yield back to the Chair.

Mr. HYDE. One of the great incentives for legalized gambling by the States by government is the painfulness of having to raise taxes. If there is anything that is anathema to a legislator or a Governor, it is raising taxes, and so if there is another way you can get revenue that appears to be painless and appears to be entertaining, why, it is, to coin a phrase, a natural.

But that is the vice of the situation. It is just that slippery slope, and it encourages—it doesn't produce anything. It exchanges things, but it doesn't produce anything, and when it becomes a substitute for work and study and productivity, it bears watching.

Drinking, gambling, smoking, they are all little pleasures that people have, and you don't want to deny them, but they can be abused. It just requires us to be vigilant to see that the abuses don't overwhelm whatever benefits they have.

So I am not opposed to this resolution.

Mr. SCHIFF. Will the Chair yield me 30 seconds more?

Mr. HYDE. Surely.

Mr. SCHIFF. I appreciate that. I just wanted to say, one of the suggestions from the Indian Gambling Association is, don't forget to look at State lotteries. I think that is very appropriate.

In another hearing we were examining these places that cash checks for a fee for people who have not the strongest credit or identification, and in—over and above that issue, in and of itself, it turns out that where State lotteries exist, these places also get the license to sell the State lottery tickets. So they are not only cashing checks for, very often, very poor people, often welfare checks for a fee, but right on top of it they are there to sell them the lottery tickets, so they are trying to get all the check before these people get out of the store.

I thank the chairman.

Mr. HYDE. I thank the gentleman.

The gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Mr. Chairman, I thank you very much, and I thank, in his absence, Congressman Wolf for providing us with a provocative question and an issue that is worth probing.

Mr. Jahoda, I do appreciate the fact that you are here. It is always good to have a living witness, if you will, someone to—and I know the play on words on that; don't take it as you might think—but to have someone who has lived the life and knows firsthand what we are discussing.

Let me just make one or two comments, because as I have listened to my colleagues in prior debates on other issues, my Republican colleagues raise the issue of States' rights fairly loudly, and this issue has been rebutted and refuted by the fact that are we trampling on States' rights.

I happen to believe that this Commission is both viable and has a certain degree of virtue. If we talk about States' rights, I would argue we have a national phenomenon that, if it doesn't include interest in State commerce, it certainly looks like it is a raging disease where every single State seems to look to the potential of gambling as the next economic and job opportunity for the 21st century.

It will be interesting to see what we will teach our kindergartners in the year 2000 and the job training that they would get.

But what I would like to ask from you—and I likewise am gratified by what I have heard from those involved in Indian reservation gambling because they have offered to participate in this Commission, if passed, because they would like to also show how it has worked. So I don't want to leave that point not on the table.

But what I am interested from your perspective is to, one, give us the far-reaching impact of gambling so that it does not necessarily and always fall on those who people suggest are welfare recipients and that those are the folk that are running and using their last AFDC payment for that, but that it has—and I think in your testimony you aptly note that.

But I am interested in the far-reaching impacts of gambling and what it does personally to individuals; that is, family strains, strain on families and marriages, and also what the illegal gambling does to families beyond those who will be classified as the indigent or those who would be on Federal entitlements. That is my first question to you.

Mr. JAHODA. Well, that is several questions, and I will do my best to answer them within the limited area of my expertise.

But first of all, I am of the opinion that gambling and the negative effects of gambling, as we sit here, is that it is an epidemic—it is of epidemic proportions. You are talking about a business that is growing by such incredible leaps and bounds.

When I said today that gambling is going to—in my opinion, will wipe out the bulk of the middle class and just demolish the lower middle class within 15 years, it is based—I originally made a statement similar to that 3 years ago, except I projected it at 25 years. Now I have got it in my own mind down to 15 because this thing is just getting too big to handle.

People—it is human nature to gamble. That is why there are laws against gambling. That is why there is literally no legal gambling in this country, because it is dangerous. There is licensed gambling, sure, but there is no legal gambling. There is either licensed gambling or illegal gambling.

Ms. JACKSON LEE. That is interesting.

Mr. JAHODA. Because you will notice, none of these laws are getting repealed. The licenses—excuse me—the casinos are opening, but the laws against gambling are still in place. Now there is a reason for that, I have to say, again, with limited experience, if I can address the other part of your question.

Ms. JACKSON LEE. Please. And would you add, because I see my light is going on, so that I can get the question in, that I am interested in—would you add, in finishing your answer, the street gambling that juveniles initially engage in, where does that lead to, and also the popular lottery that most States are participating in at this point.

Mr. JAHODA. Well, I think the lottery——

Ms. JACKSON LEE. Thank you.

Mr. JAHODA [continuing]. Is a bit of a national embarrassment for the States that have to put them in. I understand the problem the States have with raising taxes. But the lottery fever just wipes out the poor. But they target the poor.

I have to tell you something. I went to—out of my own curiosity and at my own expense, I attended a conference in Virginia—I am going to guess—2 years ago. The North American Association of Lottery folks met in Richmond, VA, and I attended the meetings.

I went there to—I had media credentials. I didn't pass myself off as who I was. I didn't identify myself. I was just curious to see how the lottery works.

And the way that they set up their ad campaigns, it is an absolute disgrace the way they are marketing right now to beat our kids, to beat the poor. They will have one target area in a Hispanic neighborhood, they will have another target in the black communities. It is the same sort of niche marketing that, if a beer company did it or a cigarette company did it or a bakery did it, the community would be in an uproar, and they should be in an uproar.

It is unfortunate that it is mostly poor people who have to finance the lottery. That has generally been my experience from what I have seen.

In terms of street gang gambling, I don't know anything about it. I always—and I never encouraged anybody under the age of 21 to gamble. I had opportunities to establish gambling establishments on campus. I never wanted to do it. I think it is a dirty end of a dirty business.

But I have to say, though, when I was within the Witness Protection Program, if you want to see the world or the United States, join the Witness Protection Program, because I ended up in 33 States, and I was just telling a gentleman during the lunch break, in the 33 States, all of them college towns, there was gambling, bookmaking, gambling on every campus.

And one thing that amazed me is, living in Chicago all my life, is the lack of organized crime presence in middle America, whether it is Des Moines, IA, or Sioux Falls or Billings or Oklahoma City.

But the absence of organized crime showed there was absolutely no abatement of organized gambling just because there was not a presence of organized crime. It is an epidemic on every campus. The only way you convince young people at that age is obviously through education, and I haven't found anybody that is willing to spend that money, including the NCAA, who I have talked to. But they are in denial just as some of the States are in denial about raising taxes: Let's keep the lottery, let's open up that riverboat.

I hope I have answered part of your question.

Ms. JACKSON LEE. You have, and you certainly focused on the issue of the far-reaching impact.

I want to look more, Mr. Chairman, and I thank you for the juvenile impact. You did touch on it. We are saying that our youngsters who are not necessarily involved in juvenile crimes, are in college maybe, in fact, engaged in this activity because it is everywhere.

Mr. JAHODA. Correct. I have to believe that it is—it is on high school campuses.

At one of the few high schools that I lectured at, it was because they had broken up a gambling ring at the high school, the juniors and seniors at an affluent high school, by the way, in suburban, Maryland. The kids were betting on parlay cards and football pools and things of that nature, 16 and 17 years old.

So I don't know where you start because the kids are getting saturated with—you know, bombarded with advertising, and, "This gambling is so wonderful and so healthy for you; we are not going to stop until everybody is a millionaire" sort of a—as sort of a pitch; it is hard to resist.

Ms. JACKSON LEE. Thank you very much.

Mr. Chairman, I thank you, and I think this adds at least data to the fact that it is an issue worth studying. Thank you.

Mr. HYDE. I thank the gentlelady.

The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. Jahoda, we have been talking about your opinion on the effect of the expansion of legalized gambling on illegal gambling, and I take it your strongly held opinion is that that that promotes a propensity to participate in illegal gambling. Did the customers that you dealt with see any difference when they came in and dealt with you between legal and illegal gambling?

Mr. JAHODA. No, because the product is the same.

Now, the customer knows that obviously if he is betting with me, let's say at a blackjack game, he knows it is an illegal activity. But he also knows it is a lot easier gambling with me than getting in a plane or, you know, driving to the Indian reservation or what-have-you. So again, it is the same product. The label may be different, but it contains the same item.

Mr. GOODLATTE. It sends a message.

Do you think the constant advertising of legal gambling and lotteries on television has an effect on this attitude?

Mr. JAHODA. Certainly, it does. As I said, what legal gambling does is, it creates a market in the underground, in the illegal economy, and also what it starts to do is, it kind of softens up the younger people that are exposed to all the same part of advertising who really don't know the odds. You know, nobody has ever told them the chances of losing because, as I said, there is very little truth in it when it comes to gambling as a consumer product. So there is a little bit of something there.

Unless somebody can sit down and, in black and white, show you the numbers—you can't win, fellow, at this game no matter how long you make, it is just a matter of how little can you lose—then we are not doing our jobs until we get to that point where we wise up these kids, because it is our children and our grandchildren that the industry is taking dead aim at, dead aim at 'em, and the only way we can stop 'em is through ourselves, through education, through actions from committees like this.

I think—somebody told me, perhaps incorrectly—it was something I heard on television not too long ago—that there was a commission in 1977 or 1976—or 1977. At that time the gambling industry—and no action was taken—well, obviously, or little action was taken.

Now, at that time, Atlantic City was just a blueprint. Legalized gambling was only in the State of Nevada. You had a few lotteries going, but—and the business was probably a fifth—at the most, a $15 or a $17 billion a year business. Since that time, that brief period of time, 19 years, that industry grew from $15 billion a year to a half of a trillion dollars. It increased 33 to 1, and nothing's happened. Now it's growing faster than ever, and somebody's got to get a handle on this before the social damages of gambling create more problems to our families.

Mr. GOODLATTE. I notice you keep referring to it as gambling. Our folks here who are advocating the legal end of this, they refer to it as gaming. Is there any distinction between these two? Why do they call it gaming?

Mr. JAHODA. It is a public relations word.

Was I interrupting you, sir?

Mr. GOODLATTE. Go right ahead.

Mr. JAHODA. What impressed me or what caught my ear, I heard a gentleman on television on "Crossfire" Sunday night, very savvy, articulate guy, he's a prepaid hustler for the Gambling Association, and he was asked three or four times by a very astute woman, "Why don't you use the word?"

Mr. HOKE. He is sitting behind you.

Mr. JAHODA. "Why do you use the word 'gaming' instead of 'gambling'."

I made a bet with a friend of mine. I said this gentleman will eat his children before the word "gambling" passes his lips, because you can't use the word "gambling," you have got to describe it as "gaming." That's just part of the ploy. That is just part of the business.

Mr. GOODLATTE. Is there any type of gambling, any of the particular activities people participate in, that's better than other gambling?

Mr. JAHODA. Myself?

Mr. GOODLATTE. Yes.

Mr. JAHODA. I played a little bit of poker as a young boy.

Mr. GOODLATTE. No, I am talking about the merits of these different type things. Some of them are illegal, some are legal, some are legal in some places, illegal in other places. Is there any particular type of gambling that is better than others that would be deserving?

Mr. JAHODA. There are some parts of gambling that are less worse than others in that particular sense where you can kind of change your odds on the fly, where you will lose slower.

Mr. HYDE. If the gentleman would yield, the stock market's a gamble, isn't it? And that's supposed to be very respectable. But people invest in the hopes that it will go up, they can sell, and make some money.

Mr. GOODLATTE. If the gentleman will allow me another moment, since my time has expired, let me say that when you invest in the stock market, you are buying something, and, yes, the value of that may change over time, but I don't see that that is at all comparable to putting money down on the chance that that wheel is going to turn in your favor.

Mr. HYDE. No. You asked about good gambling. It would seem to me, investing in the stock market, you may not want to attach the word "gambling" to it, but——

Mr. GOODLATTE. I don't.

Mr. HYDE. I do. I think it has some of the aspects of risk-taking.

Mr. GOODLATTE. I think some of it can be created that way, yes.

Mr. HYDE. The gentleman and I know that "gaming" is an appropriate euphemism for "gambling," just as "undocumented alien"—or "undocumented worker" is used. In fact, we don't use "senior citizen" around here anymore. We say "chronologically gifted."

In any event, may I just suggest to the two marvelous, patient gentlemen waiting, we have six more witnesses and we have spent a lot of time with Mr. Jahoda, and rightfully so, because he has a fascinating story to tell.

But I would implore my two colleagues, without in any way mandating it, that they ask a targeted question so Mr. Jahoda can be released and we can get to the other six witnesses who have been patiently waiting.

So Mr. Hoke, the gentleman from Ohio.

Mr. HOKE. Well, since unfortunately I had other places to be earlier, I didn't have a chance to say anything on the record, and rather than ask Mr. Jahoda any questions—though I find his testimony fascinating—I am going to use 2 minutes of my 5 minutes just to make some observations. It seems to me that in this area of gambling we have made the same kinds of mistakes that we have made in connection with other vices that we find to be noxious in a general way but at the same time clearly have a market.

And so trying to balance the desires or the market-driven predilections of the citizens of the United States against the harms that these things can do, we have made them legal.

But I think that where we have made the mistake is in not regulating advertising. It seems to me that after Prohibition, which was a dreadfully stupid experiment, we had the opportunity to say, well, look, obviously there is a market for booze, and people want to be able to drink alcoholic beverages, and they should be allowed to drink alcoholic beverages, but there is no reason that we should sanction the glamorization of that and the promotion of that in a way that is legal.

So it strikes me that we had an opportunity to outlaw advertising but we didn't take advantage of it. I guess we did not realize just how powerful advertising would become in the era of four-color process printing, television, and mass communication. We had the opportunity then to say we were going to make all of these beverages completely legal, but the industry would not be allowed to advertise them.

We moved in that direction when we made it illegal to advertise hard spirits. It is actually not illegal, it is more by agreement with respect to the advertising of hard spirits on television and radio. But still, if you tune into any athletic event, you are going to see a very, very, not-so-subtle attempt to manipulate the minds of very impressionable young people that the use of alcohol is glamorous.

The same is true with respect to tobacco. And as a Congress, we said some 30 years ago that we will no longer allow tobacco to be advertised on television and radio. We did it pursuant to the powers that we have over the federally regulated airwaves.

I would go further. I would make it illegal to advertise tobacco products in any way whatsoever or name-brand materials that are tobacco products in any way whatsoever, and I think the same is true or should be true with respect to gambling. Because what you have seen in gambling is that there was actually an intelligent choice to move the numbers racket—that is, the illegal lottery—toward a legal lottery.

We have a long and checkered and kind of interesting history of lotteries in this country going right back to prerevolutionary days. The idea was to get gambling out of the hands of the illegal bookmakers and the mobsters, and instead put it in the hands of the State. And there is arguably a good social purpose to that.

But what has happened is that we ended up with an extraordinarily regressive tax. And there has been a mushrooming, an explosion of lottery revenues, as a result of that. That is where we are today.

I think it will be very, very different if we say no advertising under any circumstances in the States, across States, et cetera, et cetera, and then people that really want to seek this out can. That is fine. But the brainwashing and the kind of overwrought and extremely persuasive techniques that can be used by mass advertising should not be available to gaming, gambling, or whatever other euphemistic expression you want to describe it.

There is a lot of money at stake, and we are going to hear people that will undoubtedly say that their first amendment rights are somehow being abrogated by that. And we are about to hear my chairman say that I didn't use 2 minutes of my 5 minutes, but in fact have used them all. I thank you for your indulgence, Mr. Hyde.

Mr. HYDE. Time just slips by when you are talking, Mr. Hoke.

Mr. HOKE. Oh, well, thank you so much.

Mr. HYDE. It is always interesting.

And so the next speaker, the next—I am sorry—the next Member to question the witness is Michael Patrick Flanagan of the great city of Chicago.

Mr. FLANAGAN. Thank you for coming, Mr. Jahoda.

Mr. Jahoda, I will try to use only 2 of the minutes here because we do need to move on. We have got many panels and many people today.

Mr. JAHODA. I am having difficulty hearing you, Congressman.

Mr. FLANAGAN. Is that better? Can you hear me now?

Mr. JAHODA. Yes, thank you.

Mr. FLANAGAN. OK. You have very deftly drawn no difference or at least evaded the difference between legal and legalized gambling by calling them both bad and having very bad attributes and causing very difficult hardships on various communities.

That is a question that this committee will take up in the context of the 10th amendment versus the commerce clause or article I, section 8, matters and the ability of the Federal Government to impose upon the States certain rules and regulations. Those are issues that we will undoubtedly engage in, in our titanic debate over whether we will legislate gaming or gambling or the stock market, whichever we are calling it today.

But I would like to solicit from you some specific information that you possess that will help us. I think that in the area of legitimate versus illegitimate gambling, legalized versus illegal gambling, a lot it has to do with who controls it; a lot of it has to do with who owns it.

I would offer you that many of the casino owners in Vegas are legitimate businessmen, if not all of them; that the riverboat owners in Illinois are legitimate businessmen, if not all of them; the reservation gambling by the Indians is certainly run on an up and up, four-square basis. The native Americans are scrupulous in that. I would further argue that the lotteries run by the various States are run by legitimate, honest people. If you believe otherwise, could you tell us so?

Mr. JAHODA. I believe that, as I said earlier, that the industry itself has done a magnificent job of policing itself and cleaning itself up. But I have only one concern, and I could be—I could be wrong. My information may not be correct.

I had read at one time that the casino doing the most business per square foot in the country is this Foxwoods up in the New England States someplace. Now, it's my understanding—I really hope my information is wrong—is that the owner of that contract is a—I am trying to think of the word for it, but a group of businessmen from the country of Malaysia that literally own the proceeds of that, the net profits out of that casino, and I can't imagine how the biggest casino in the United States can be shipping money to Malaysia in a 55-gallon oil drum. That kind of—that kind of goes over my head.

So I can't speak for how they run their businesses in Malaysia, but everything that's happened in the States that I have seen—and I am no authority; you will have authority on those subjects later in the day—that's one aspect of the industry where they deserve to be proud of themselves. They have done a tremendous job of licensing.

Mr. FLANAGAN. Then on the other side, if I may just ask one last question, Mr. Chairman—on the illegal side, again, you have it owned by the most disreputable, unsavory criminal people imaginable, and into that web are pulled perhaps—and maybe you can tell us about—crooked lawyers, crooked judges, crooked politicians, prosecutors, and others who salt that industry with its pernicious evilness through an area where the locality has decided that gambling is not something that they will have there.

I am sure that you could testify as to the validity of what I have just said. But I think there is a distinction that needs to be drawn, is that if the locality, in its own wisdom, desires to have gaming, gambling, or the stock markets, as the case may be, I don't understand how that is going to build the criminality of it based upon the testimony just given us that they have done a terrific job in policing themselves.

Mr. JAHODA. As I mentioned, all forms of gambling, once you have got cash, you have got people gravitating; even legitimate businessmen get corrupted, trying to win that cash.

I think that there have been studies that have been done, particularly in white-collar crime, in fraud, embezzlement, where you can almost guarantee one-third out of every incidence period is related to gambling, legal or illegal. It doesn't make any difference; you get a tremendous incidence of that sort of crime. If people need to play, they need to pay in order to play, so you have got an underclass of crime that is needed to support the habit.

I can't go much more beyond that, but, as I say, I am sure other people that are coming up will. I just don't—I am—I just don't have the background to give you a complete answer. I just know what my exposure has been over the years, what I have witnessed.

Mr. FLANAGAN. Thank you, Mr. Jahoda.

Thank you, Mr. Chairman.

Mr. JAHODA. Thank you, sir.

Mr. HYDE. I thank the gentleman.

Mr. Jahoda, we have come to the end of the questions and your testimony. I want to thank you for very valuable testimony, interesting but valuable and important, as we determine whether to pass legislation creating such a Commission, and I really admire you for coming forward at some risk. So I want to thank you on behalf of the committee.

Mr. JAHODA. I want to thank you very much, Mr. Chairman. I also want to thank you personally because I know you—I know you went out of your way to get me here, and I am very, very grateful for that.

Mr. HYDE. Not at all.

Mr. JAHODA. And thank you, ladies and gentlemen of the Congress. It has been a pleasure for me to be here.

Mr. HYDE. Thank you, sir.

If the people would stay seated while Mr. Jahoda leaves, and we will get the furniture movers. There are some easels to be set up. Shall we set those up now?

While the staff is setting up the easels for the displays, I would like to introduce our final panel which consists of six witnesses who have varying perspectives on this issue.

First we have a Mr. Paul Ashe, Paul R. Ashe, the president of the National Council on Problem Gambling in Altamonte Springs, FL. Mr. Ashe will speak to the problem of compulsive gambling.

We also have an old friend, Mr. Frank Fahrenkopf, Jr., who is president and chief executive officer of the American Gaming Association. This association represents the operators of casinos and the manufacturers of the equipment used in them.

Next are Mr. Tom Grey, the executive director of the National Coalition Against Legalized Gambling; and Prof. Earl Grinols, Department of Economics, University of Illinois. Both of these gentlemen are from my home State of Illinois, and I am particularly glad to have them here.

We also will hear from Richard G. Hill, chairman of the National Indian Gaming Association. Mr. Hill represents the interests of the Indian tribes that have gambling operations, and we are certainly glad to have him here.

And finally, from my hometown of Chicago, we are going to hear from Jeremy Margolis, who will speak to the crime issue from the perspective of those who favor gambling.

If the gentlemen would take their places, please. Very well. We will start off with Mr. Ashe.

Mr. ASHE. Good afternoon, Mr. Chairman, members of the subcommittee.

Mr. HYDE. Let me suggest that each of you take 5 minutes, give or take all, part of the 5, and then your statements, full statements, should you wish, will be placed in the record, and then there will be questions where you can expand. But we do want do hear from everybody.

Mr. Ashe.

STATEMENT OF PAUL R. ASHE, PRESIDENT, NATIONAL COUNCIL ON PROBLEM GAMBLING, INC.

Mr. ASHE. Thank you, sir.

The National Council on Problem Gambling and its 25 State affiliates are nonprofit corporations and take a neutral position on legalized gambling and neither support nor oppose any gambling activities. The national council was originally formed in 1972 and since that time has worked to support research, public education, training, referral, and model program development in order to further understanding and treatment for individuals and families suffering from serious gambling disorders.

As has been stated several times by this committee today, the only study done on gambling is 1976 when lotteries were in their infancy. At that time, it was estimated that the total legal amount wagered in the United States amounted to about $22 billion, or about 2 percent of the United States' personal income, while gambling revenues amounted to approximately $3 billion.

Since 1976, gambling has quickly proliferated throughout the United States. Over 37 jurisdictions operate lotteries, six States permit casino gambling, and six States permit riverboat gambling, and the Federal Government allows high stakes bingo and/or casino gambling on Indian reservations across the country.

By 1994, all but two States had some type of legal gambling activity and the amount wagered in the United States had reached the alarming amount of $482 billion, or about 8.5 percent of personal income while legal gambling revenues amounted to approximately $39.9 billion.

In today's high-tech society, which includes Internet and offshore gambling enterprises, the ability of the computer has provided a wide range of gambling action. Future results and effects both positive and negative of the computer age gambling industry remain an unknown. Accordingly, it is time to examine this problem.

Such a study should be mandated immediately in order to have research-based information to know exactly the extent of the prevalence and impact of pathological gambling in the 1990's.

Most Americans are social gamblers who can participate in gambling activity without any harmful effects, but a rapidly growing percentage of the population for whom gambling becomes uncontrollable are referred to as pathological or problem gamblers, commonly called compulsive gamblers.

Pathological gambling is officially recognized by the American Medical Association and medical community, as a health issue. The American Psychiatric Association first recognized pathological gambling as a mental disorder in its Diagnostic and Statistical Manual, DSM–III, in 1980, while the American Medical Association passed a resolution in 1994 asking physicians to advise patients about the addictive nature of gambling activity. The essential features of this disorder are continued and periodic loss of control over gambling; a progression in the frequency and the amount wagered, and in the preoccupation with gambling, and in obtaining moneys with which to gamble; and a continuation of this behavior despite any adverse consequences.

The 1976 study showed a prevalence rate of about .77 percent, or 1.1 million probable compulsive gamblers, as they were called in 1976.

Prevalence studies conducted in 15 States since the advent of the lotteries and other high-tech gambling innovations show a combined prevalence rate of 1.7 percent in 1989 in Iowa to 7 percent most recently in Louisiana in 1995.

On average, States with more legal gambling have more problem and pathological gamblers, as indicated in a recent Iowa study where the prevalence rate increased from 1.7 percent in 1989 to 5.4 percent in 1995.

Demographically, males, nonwhites, younger individuals, and those of lower education appear to be at greater risk for developing gambling problems. Recent studies have shown that the presence of pathological gambling among high school juveniles is as much as two to four times the prevalence rate throughout North America in adults.

These findings were reviewed in April 1995 by the Harvard Medical School think tank on teen gambling in which members of the national council and the gaming industry participated as an initial effort to solve this problem.

Since there are no systematic studies of the financial and social impact of pathological gambling, assumptions about the costs to the Nation must be based upon existing surveys of individuals in treatment which show high costs to the individuals which include indebtedness, deteriorating relations with family, depression, and ultimately suicide; to the family, emotional turmoil, stress-related diseases, lack of financial support, neglect, and divorce; and substantial cost to society such as loss of work productivity, money stolen or embezzled, unpaid tax, bankruptcy, as well as substantial cost to the criminal justice system.

Available services for pathological gamblers rank well below those of other addictions. While there are over 13,000 programs for alcohol and other substance abuses throughout the Nation, there are fewer than 100 programs for pathological gamblers. Only 13 States provide any financial support for education, research for pathological gambling, and the Federal Government provides absolutely none.

While gambling regulation has historically been the prerogative of State governments, the Federal Government has become involved with gambling through legislation, such as the Indian Gaming Regulatory Act, the regulation of interstate commerce inclusive of the many gaming companies and the impact of problem and pathological gamblers on the armed services.

Mr. HYDE. Could the gentleman bring his remarks to a conclusion.

Mr. ASHE. I am just coming to a conclusion.

Mr. HYDE. Very good. I didn't want to cut you off.

Mr. ASHE. And through the criminal justice system. The rapid expansion of opportunities to gamble makes it imperative that the Federal Government address this issue of problem gambling.

Problem gambling has a negative impact on the entire Nation, and to adequately address this issue with plausible solutions and treatment for prevention requires the attention of the Federal Government. The national council would be honored to be part and could substantially contribute to the Commission as is contemplated by House bill 497.

Thank you for the opportunity to present this information.

[The prepared statement of Mr. Ashe follows:]

PREPARED STATEMENT OF PAUL R. ASHE, PRESIDENT, NATIONAL COUNCIL ON PROBLEM GAMBLING, INC.

BACKGROUND

The most recent and only national study of gambling behavior was completed in 1976 when state lotteries were in their infancy. At that time, it was estimated that total legal annual wagering in the United States amounted to $22.4 billion or about 2% of United States personal income, while legal gaming revenues amounted to approximately $3 billion annually. Since 1976, gambling has quickly proliferated throughout the United States. Over thirty seven states operate lotteries, six states permit casino gambling, six states permit riverboat gambling and the federal government allows high-stakes bingo and/or casino gambling on Indian lands across the country. By 1994, the amount wagered legally in the United States had reached $482.1 billion or 8.5% of United States personal income while legal gaming revenues mounted to $39.9 billion.

In today's high tech society which includes the Internet and off-shore gambling enterprises, the ability of the computer has provided a wide range of gambling action. Future results and effects (positive or negative) of the computer age gambling industry remains an unknown. Accordingly, it is time to examine this abnormal interest and promotion of gambling as a cure all for various problems.

To date no national study has been conducted to assess the impact of the rapidly expanding gaming industry on society. Such a study should be mandated immediately.

DEFINING PROBLEM AND PATHOLOGICAL (COMPULSIVE) GAMBLING

Most Americans are social gamblers who can participate in a gaming activity without harmful effects. A small percentage of the population, for whom gambling becomes uncontrollable, are referred to as problem or pathological (compulsive) gamblers.

The American Psychiatric Association first recognized pathological gambling as a mental disorder by its inclusion in the Diagnostic and Statistical Manual (DSM–III) in 1980. Pathological gambling was recognized as an addiction by the American Medical Association in 1994. The essential features of the disorder are a continuous or periodic loss of control over gambling; a progression in frequency and in the amount wagered, in the preoccupation with gambling, and in obtaining monies with which to gamble; and a continuation of the behavior despite adverse consequences.

EPIDEMIOLOGY

The 1976 study for the Commission on the Review of the National Policy Toward Gambling showed a prevalence rate of .77% or 1.1 million "probable compulsive gamblers" (as they were called) in the United States. Prevalence studies in fifteen states conducted since the advent of lotteries and other high-tech gambling innovations show combined prevalence rates from 1.7% (1989) in Iowa to 7.0% (1995) in Louisiana. On average, states with more legalized gambling have more problem and pathological gamblers, as indicated in the Iowa studies where prevalence rates increased from 1.7% in 1989 to 5.4% in 1995. Demographically, males, non-whites, younger individuals, and those with lower education appear to be at greater risk for developing gambling problems. Recent studies have shown that the presence of problem and pathological gambling among high school juveniles is as much as two to four times the prevalence rate of adults with problem/pathological gambling throughout North America. These findings were reviewed in April of 1995 at a Harvard Medical School Think Tank on Teen Gambling, of which members of the National Council on Problem Gambling and the gaming industry both participated as an initial effort to solve this problem.

THE COST OF PATHOLOGICAL GAMBLING

Since there are no systematic studies of the financial or social impact of pathological gambling, assumptions about the costs to the nation must be based on existing surveys of individuals in treatment which show high costs to the individual (indebtedness, deteriorating relationships with family and friends, depression and suicide attempts); to the family (emotional turmoil, stress-related diseases, lack of financial support, neglect and divorce); and substantial costs to society (lost work productivity, monies stolen or embezzled, unpaid taxes, and bankruptcies as well as substantial costs to the criminal justice system).

AVAILABILITY OF TREATMENT AND PUBLIC EDUCATION PROGRAMS

Available services for pathological gamblers rank well below those for other addictions. While there are over 13,000 programs for alcohol and other substance abuse problems throughout the nation, there are fewer than one hundred treatment programs for pathological gamblers. Only thirteen states provide any financial support for education or research for pathological gambling, and the federal government provides none.

THE NEED FOR CONCERN AND INVOLVEMENT BY THE FEDERAL GOVERNMENT

While gambling regulation has historically been a prerogative of state governments, the federal government has become involved with gambling through legislation such as the Indian Gaming Regulatory Act, the regulation of interstate commerce inclusive of many gaming companies, and the impact of problem and pathological gamblers on the armed services, and the federal criminal justice system. The current rapid proliferation of opportunities to gamble makes it imperative that the federal government address the issue of problem and pathological gambling.

Problem and pathological gambling has a negative impact on our entire nation. In order to adequately address this issue with plausible solutions for treatment and preventative education, problem and pathological gambling requires the attention of the federal government. The National Council on Problem Gambling would be honored to be a part of, and could substantially contribute to a commission as is contemplated by House Bill 497.

THE NEED FOR A NATIONAL POLICY ON PROBLEM AND PATHOLOGICAL GAMBLING IN AMERICA

The National Council on Problem Gambling, Inc.

The National Council on
Problem Gambling, Inc.

P. O. Box 9419
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The National Council is a not-for-profit agency dedicated to addressing the issue of problem and pathological gambling. The Council's activities include public awareness, advocacy, dissemination of information, public education, referrals, training of treatment professionals and research.

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EXECUTIVE SUMMARY OF THE NEED FOR A NATIONAL POLICY ON PROBLEM AND PATHOLOGICAL GAMBLING IN AMERICA

Background

The last--and only--national study of gambling behavior was completed in 1976 when lotteries were in their infancy and total annual wagering in America was only $17.3 billion. Since that time, gambling has exploded across America. Over thirty states operate lotteries, four states permit casino gambling, six states permit riverboat gambling, and the federal government allows high-stakes bingo and/or casino gambling on Indian lands across the country. By 1992, the amount wagered legally in the United States had reached $329.9 billion.

However, no study has yet been done to assess the impact of this rapid expansion of gambling on the American populace. Such a study is needed.

Defining Problem and Pathological (Compulsive) Gambling

Most Americans are social gamblers who can participate in a gaming activity without harmful effects. Some gamblers cannot, however, and are referred to as problem or pathological (compulsive) gamblers.

The American Psychiatric Association first recognized pathological gambling as a mental disorder by its inclusion in the Diagnostic and Statistical Manual (DSM-III) in 1980. The essential features of the disorder are a continuous or periodic loss of control over gambling; a progression, in frequency and in amount wagered, in the preoccupation with gambling and in obtaining monies with which to gamble; and a continuation of the behavior despite adverse consequences.

Epidemiology

The 1976 study for the Commission on the Review of the National Policy Toward Gambling showed a prevalence rate of 0.77% or 1.1 million "probable compulsive gamblers" (as they were then called) in the United States. Prevalence studies in thirteen states conducted since the advent of lotteries and other high-tech gambling innovations show combined prevalence rates for problem and probable pathological gamblers in individual states ranging from 1.7% in Iowa to 6.3% in Connecticut. On average, states with more legalized gambling have more problem and pathological gamblers. Demographically, males, non-whites, younger individuals and those with lower education appear to be at the greatest risk for developing gambling problems.

The Cost of Pathological Gambling

Since there are no systematic studies of the financial or social impact of pathological gambling, assumptions on the costs to the nation must be made on existing surveys which show high costs to the individual (indebtedness, deteriorating relationships with family and friends, depression and suicide attempts); to the family (emotional turmoil, stress-related diseases, lack of financial support, neglect and divorce); and substantial costs to society (lost work productivity, monies stolen or embezzled, unpaid taxes, and bankruptcies as well as substantial costs to the criminal justice system).

Availability of Treatment and Public Education Programs

Available services for pathological gamblers rank well below those for other addictions. While there are over 13,000 programs for alcohol and other substance abuse problems, there are fewer than one hundred treatment programs for pathological gamblers. Only thirteen states provide any financial support for education or research for pathological gambling, and the federal government provides none.

Need for Concern and Involvement by the Federal Government

While gambling regulation has historically been a prerogative of state governments, the federal government has become involved with gambling issues through legislation such as the Indian Gaming Regulatory Act, through the regulation of interstate commerce that now includes many gaming companies, and through the impact of problem and pathological gamblers on the armed services and on the federal criminal justice system. The recent rapid proliferation of opportunities to gamble makes it imperative that the federal government address the issue of problem and pathological gambling.

Problem and pathological gambling is national in scope and should thus be addressed on the national level by the federal government.

Recommendations of the Public Policy Committee of the National Council on Problem Gambling, Inc.

- Recognition of the severity of pathological gambling by the adoption of a national policy statement about problem and pathological gambling
- Inclusion of pathological gambling and substance abuse in a national health care plan
- A national survey of problem and pathological gambling to develop prevalence rates of problem and pathological gambling, a social impact study to determine the costs and benefits of legalized gambling, and an assessment of the impact of problem and pathological gambling on at-risk populations: youth, women, minorities and the medically indigent
- Funding of the National Council on Problem Gambling to provide public education, training, prevention, and intervention services
- Development of policies to address pathological gambling in the federal criminal justice system and among military personnel
- Ending discrimination against pathological gamblers through exclusion from protections afforded to those with other disabilities

THE NEED FOR A NATIONAL POLICY ON PROBLEM AND PATHOLOGICAL GAMBLING IN AMERICA

Background

In 1976 when the Commission on the Review of the National Policy Toward Gambling issued its final report, only thirteen states had lotteries, only one state had approved off-track wagering, and there were no casinos outside of Nevada. The Commission estimated that the total volume of money legally wagered on gambling in 1974 was $17.3 billion.

By 1992, the amount had reached $329.9 billion (Christiansen 1993)--a 1900% increase in just eighteen years. Today a person can make a legal wager of some sort in every state except Utah and Hawaii. Over thirty states and the District of Columbia operate lotteries, so that the majority of states not only actively promote gambling, but have become dependent on it for essential revenues. There is an increasing urgency by state lotteries to go beyond scratch-off tickets and weekly drawings to faster and more exciting games. Lottery keno offers a new game every five minutes. By 1993, eight states already had lottery keno in operation; twenty others had bills to introduce it. Right behind lottery keno are video lottery terminals (VLTs) and video poker machines. These are already allowed in four states and others are very interested in legalizing them.

Casino gambling, once confined to Nevada and Atlantic City, has spread rapidly across the country, partly in response to the need for additional revenues for local and state governments, but also as a result of the Indian Gaming Regulatory Act of 1988. This landmark legislation allowed Native American tribes to operate any form of gaming legally allowed in their state.

Since many states allow charities to have "Las Vegas nights," this opened the door to high-stakes casino gambling on Indian land. Tribes rushed in to take advantage. By 1993, there were 153 high-stakes bingo halls and/or casinos operating in 27 states while gross wagering on Indian reservations had reached $15 billion (Christiansen 1993; Connor 1993). The most successful of the Native American casinos is Foxwoods in eastern Connecticut which, with $200 million in annual gross receipts, is the largest table games revenue-generating casino in the world. The addition of video machines could bring the total to $500 million and make it arguably the world's largest casino.

Numerous tribes are now working with companies in the gaming industry to create Las Vegas-style casinos in several states. Since few of the profits from these Native American casinos go to the states in the form of taxes, it is only logical that some states have considered legalizing casino gambling in order to get in on the action.

Thus, casino-type gambling is rapidly spreading in some form across the country. By 1993, riverboat gambling had been legalized in six states--Illinois, Indiana, Iowa, Louisiana, Mississippi and Missouri--with other states seriously considering it. Riverboat gambling or dock-side gambling may be the wave of the future, as gaming interests find the concept easier to sell to reluctant legislators than land-based casinos. In Mississippi, for example, riverboats have already been liberally redefined so that they neither need to look like a boat nor move from shore.

Casino gambling has also been legalized in historical communities in Colorado and South Dakota and in urban areas such as New Orleans. Experts project that there will be some form of casino-style gambling in half of the states by 1995 (Rose 1992).

On the horizon are technological innovations which will make gambling even more accessible, while speeding up games to make them more involving for the participant and the exchange of money more efficient. Soon there will be "cashless" gambling in which wagering is done by insertion of a credit or debit card, home access in which cable television will bring satellite wagering into the home, and interactive television in which one can stop the action of a sporting event and wager on each aspect of the game. A cable television company has proposed televising gaming events twenty-four hours a day so that at-home participants can wager on gaming events around the world. Airlines have plans to offer interactive gambling during international flights.

To date, the innovation with the greatest impact has been the video gaming machine, commonly known as video poker. Like other technological advances in this field, video poker was introduced without any attempt to assess potential harm on the lives of participants. Widely-publicized remarks by one clinician calling video gaming the "crack cocaine" of gambling (Bulkeley 1992) and observations by hotline counselors who report an increasing frequency of calls from video poker players underscore the need for systematic impact studies of this form of gambling.

At what point will the American public have enough gambling? Comparisons with other countries suggest that saturation is a long way off. In the United States, expenditures per capita on legal gambling in 1991 was $200 compared to $400 in Australia (Williams 1992). Some American states have already equaled or exceeded Australia, most notably Minnesota with $500 per capita and Nevada with $1,000.

Defining Problem and Pathological (Compulsive) Gambling

Most Americans are social gamblers. They gamble for entertainment and typically do not risk more than they can afford to lose. If they should "chase" their losses to get even, they do so briefly; there is none of the long-term chasing or progression of the pathological (compulsive) gambler.

Clinicians tend to use the terms pathological and compulsive gambling interchangeably. This goes back to 1980 when the American Psychiatric Association first recognized compulsive gambling as a bonafide mental disorder and included it in its Diagnostic and Statistical Manual (DSM-III). However, they changed its name. Compulsive gambling was thought a misnomer (Moran 1970), since in the language of psychiatry, compulsive behavior is involuntary and "ego-dystonic" (externally derived or foreign to the self). Examples of a compulsion would include repetitive hand washing or the irresistible urge to shout an obscenity. Pathological gambling is more like an addiction. It is typically experienced in its early states as pleasurable.

The essential features of the disorder (American Psychiatric Association, in press) are a *continuous or periodic loss of control over gambling; a progression, in frequency and in amount wagered, in the preoccupation with gambling and in obtaining monies with which to gamble; and a continuation of the behavior despite adverse consequences.* This is essentially the definition of an addiction.

Other similarities with alcohol and substance dependence have been noted (Levinson et al 1983; Miller 1980; Moran 1970). While money is important, most pathological gamblers say they are seeking "action", an aroused, euphoric state comparable to the "high" derived from cocaine or other drugs. Many will go for days without sleep and for extended periods without eating or relieving themselves. Clinicians have noted the presence of cravings, the development of tolerance (increasingly larger bets or the taking of greater risks to produce a desired level of excitement, [Lesieur 1977]), and the experience of withdrawal symptoms (Meyer 1989; Rosenthal & Lesieur 1992; Wray & Dickerson 1981). Some gamblers report a "rush", characterized by sweaty palms and rapid heart beat experienced during the period of anticipation of gambling. Other gamblers may exhibit different symptoms. For example, because many women gamblers gamble as an escape mechanism and are more passive in their gambling behavior, their physical reactions may differ from that of the action-seeking male gambler.

For both male and female gamblers there are distortions in thinking--notably denial, various superstitions and fixed beliefs, and an illusion of power and control (Rosenthal 1986). This latter sense of certainty or conviction about the future is born out of desperation. Trance-like or dissociative states have also been reported.

In order to be diagnosed as a pathological gambler, an individual must meet at least five out of ten diagnostic criteria established by the American Psychiatric Association. These criteria are based on solid research and have been shown to be highly reliable and valid. The ten criteria include: loss of control; tolerance; withdrawal; increasing preoccupation; gambling to escape problems and dysphoric feelings; chasing one's losses in an effort to get even; lying about one's gambling; jeopardizing family, education, job or career; serious financial difficulties requiring a bailout; and illegal activities to finance gambling or pay gambling debts (American Psychiatric Association, in press).

It is not poor luck or the loss of money that makes one a pathological gambler. Some individuals have sought help in the early stages of their gambling careers, when they were still winning. They were astute enough to become concerned about their intense physical reactions or the preoccupation with gambling which created problems at home or work. Others experience gambling problems without developing all the signs of pathological gambling, most notably the lack of progression or preoccupation with long term chasing. The term "problem gambling" (Rosenthal 1989; Lesieur & Rosenthal 1991) has recently been introduced to describe this group, which may represent an early stage of pathological gambling. The term is also used as a more inclusive category which encompasses pathological or compulsive gambling as one end of a continuum of problematic gambling involvement.

Epidemiology

The only national prevalence study to date was conducted by the University of Michigan's Institute for Social Research under the auspices of the Commission on the Review of the National Policy Toward Gambling. The results were published by the Commission (1976) and as a separate report by the Survey Research Center (Kallick et al 1979). The authors concluded that, in the year of their inquiry (1974), there was a prevalence rate of 0.77% or 1.1 million probable pathological gamblers in the United States.

While most researchers contend this rate is low, only Nadler (1985) has published an extended critique of the study. He ends his analysis with what he considers to be three undeniable conclusions: (1) the methodology of the Michigan study renders its prevalence estimate equivocal (2) many social and clinical changes have occurred since the national study was completed and (3) a "national study is badly needed...to generate a valid and reliable estimate of pathological gambling which can serve as the basis for decision making in all affected realms of society." Eight years later, there is still no national study of the prevalence of pathological gambling.

Although there has been no recent national study, prevalence studies have recently been conducted in thirteen states. While the results cannot be generalized into a national prevalence rate, some important conclusions can be drawn. Prevalence rates for probable pathological gambling range from 0.1% to 2.7%. Prevalence rates for problem gambling range from 0.6% to 3.6%. Combined rates range from 1.7% in Iowa to 6.3% in Connecticut. The data seem to cluster into two groups. States with fewer problem and probable pathological gamblers tend to be those, like Iowa prior to the beginning of riverboat gambling, with more homogeneous populations and less legalized gambling. At the higher end of the spectrum are states like Connecticut with heterogeneous populations and greater accessibility to legalized gambling.

In general, in states with more legalized gambling, the prevalence of problem and pathological gambling is about double what it is in states that have less legalized gambling (Ladouceur 1991; Volberg 1991, 1992, 1993a, 1993b; Volberg & Silver 1993; Volberg & Steadman 1988, 1989a , 1989b ; Volberg & Stuefen 1991). These cross-jurisdictional results support the finding of the Commission (1976) that increases in legalized gambling create new gamblers and ultimately larger numbers of pathological gamblers.

Demographically, males, non-whites, younger individuals and those with lower education appear to be at greater risk for developing gambling problems. However, females, non-whites, lower income individuals and those under the age of thirty are under-represented in treatment programs (Volberg & Steadman 1988, 1992). They are also less likely to attend Gamblers Anonymous (Custer & Custer 1978; Nora 1984; Ciarrocchi & Richardson 1989) or to call gambling hotlines for help (Lorenz & Politzer 1990; Council on Compulsive Gambling of New Jersey 1992).

There is some evidence that gambling problems are more common among high school and college students than among the older adult population (Jacobs 1989). They are also more likely to be victims of child abuse than the general population (Lesieur & Rothschild 1989). Surveys among adolescents and young adults find rates that are three times higher than for adults. As with adult surveys, rates are higher for males and non-whites than for other demographic groups.

The Cost of Pathological Gambling

There are no systematic studies of the financial or social impact of pathological gambling on this nation. However, based on what is known about pathological gamblers in treatment and/or attending Gamblers Anonymous, the following statements can be made:

Cost to the Individual. By the time he or she seeks treatment, a pathological gambler may have generated substantial financial debts and, as a result, may have withdrawn from work activities as well as from family and social life. As these relationships and activities deteriorate, there is a depression secondary to the guilt, shame, and helplessness over mounting problems. One out of five pathological gamblers attempts suicide (Moran 1969; Lesieur & Blume 1991; Livingston 1974; Custer & Custer 1978; McCormick et al 1984). This rate is higher than that for other addictive disorders and second only to rates for certain depressive conditions, schizophrenia, and a few hereditary neurological disorders.

There may be an exacerbation of other mental disorders, such as manic depressive illness, alcoholism and substance dependence, anxiety states, and various personality disorders. Pathological gamblers typically are at risk for a number of stress-related physical illnesses. Hypertension and heart disease are common.

Cost to the Family. There are multiple effects on the family, the most obvious of which are lack of financial support, neglect, and divorce. Pathological gamblers provoke a reactive form of violence in their spouses, 37% of whom have physically abused their children, while becoming more depressed themselves (Lorenz 1981). The spouse of the male pathological gambler is three times more likely than her counterpart in the general population to attempt suicide (Lorenz & Shuttlesworth 1983). There is also a high rate of stress-related physical illnesses in the spouse, notably hypertension, headaches, gastrointestinal disturbances, and backaches, which are eight times more common than in the general population (Lorenz & Yaffee 1986, 1988).

The children of pathological gamblers do worse in school than their peers, are more apt to have alcohol, drug, gambling or eating disorder problems and are more likely to be depressed. They attempt suicide twice as often as their classmates (Jacobs 1989; Lesieur & Rothschild

1989).

Cost to Society. Addictive disorders such as alcoholism, substance dependence and pathological gambling are major causes of illness, disability and premature death in the United States. The monetary burden on society of the most serious of these disorders can be estimated although some of the consequences, such as pain, suffering and family disruption, are not quantifiable.

While there is little information on the costs of pathological gambling to society, there are well-established parallels between pathological gambling and addictive disorders such as alcoholism. There are similar psychiatric criteria as well as similar demographic characteristics. The national estimate of the cost of alcoholism to society is $11,532 per alcohol abuser (Rice et al 1991). If the cost of pathological gambling to society is similar, the economic benefits of legalized gambling could be diminished by its social costs.

In the work place, gambling problems can eventually result in lower productivity and inefficiency, absenteeism and theft. Research on Gamblers Anonymous members and on individuals entering treatment support these findings although further research is needed to determine more precisely the costs of pathological gambling in the work place. (Lesieur 1984; 1993).

The already-overburdened criminal justice system can be severely affected by pathological gambling. Studies have shown that two out of three pathological gamblers commit illegal acts in order to pay gambling related debts and/or to continue gambling. Such acts typically are turned to out of desperation and occur late in the disorder (Lesieur 1984; Brown 1987; Rosenthal & Lorenz 1992). Some crimes committed by pathological gamblers involve violence or armed robbery, but most are non-violent crimes against property. Many involve embezzlement or fraud. A survey of Gamblers Anonymous members found that 47% had engaged in insurance fraud or thefts where insurance companies had to pay the victims (Lesieur & Puig 1987). The average amount of fraud was $55,000. Pathological gamblers engage in an estimated $1.3 billion in insurance-related fraud per year (Lesieur & Puig 1987).

The number of prison inmates who have gambling problems appears to be much greater than that of the general population. In a study of prisoners (Lesieur 1987; Lesieur & Klein 1985), 30% were classified as probable pathological gamblers, and an additional 28% of the females and 23% of the males could be considered problem gamblers. The cost of arrest, prosecution, imprisonment and parole must also be figured into the total cost of problem and pathological gambling to society.

Some costs may be even harder to measure. For example, one out of four pathological gamblers was involved in an automobile accident during the desperation phase of their gambling. Almost half were speeding on their way to or from a gambling venue. Some of the more serious accidents were due to gamblers falling asleep behind the wheel after periods of prolonged play. Others may have been covert suicide attempts (Lesieur & Puig 1987).

Availability of Treatment and Public Education Programs

Less than one hundred outpatient and a dozen inpatient treatment centers provide treatment for pathological gamblers in the United States. In contrast, there are over 13,000 treatment programs for alcohol or other drug problems (National Drug and Alcoholism Treatment Unit Survey 1989). Most mental health and substance abuse treatment professionals have not been exposed to the subject of pathological gambling in their professional training and thus know little or nothing about treating clients with a gambling problem.

In some states that have funded treatment services for pathological gamblers and their families, there are long waiting lists--up to six months. There is also evidence (Lesieur 1988; Volberg & Steadman 1988, 1992) that the medically indigent, ethnic minorities and women are underrepresented in treatment programs.

At present, thirteen states provide some financial support for education, treatment or research into pathological gambling. The amount of money involved tends to be small, ranging from $20,000 to fund a hotline in Maryland to $2 million annually in Texas. Most allocations are around $100,000. Massachusetts and Iowa recently cut the budget devoted to gambling programs, and in 1992 the governor of New York proposed wiping out the state's annual appropriation altogether while at the same time suggesting the legalization of sports betting to ease the state's fiscal crisis.

In the 1990-1991 fiscal year, New Jersey received $783 million into the state treasury from gambling revenues, yet spent only $260,000 for all problem and pathological gambling programs--0.03% of its revenues from gambling. The irony is that New Jersey allocates more than most states for pathological gambling programs (Lesieur 1992). In Nevada, where gaming taxes fund 45% of the state's budget, there is no appropriation at all for public education, research, training or treatment of pathological gambling.

That there are toll-free hotlines in fourteen states and a nationwide hotline where gamblers can call for help and counseling is primarily due to the efforts of a non-profit, largely voluntary organization, the National Council on Problem Gambling and its twenty state affiliates. The National Council serves as a referral and information source, conducts training programs for professionals, sponsors conferences and a refereed professional journal and recently initiated a certification program for gambling counselors.

For most people with gambling problems, help will mean Gamblers Anonymous. Begun in 1957, the second oldest of the twelve-step programs now has eight hundred chapters across the United States, most located in large and medium-sized cities. Unfortunately, there are no Gamblers Anonymous meetings in many parts of the country and some recovering gamblers must drive over one hundred miles to attend a meeting. Notably, Gamblers Anonymous meetings are rarely available in prisons, despite the large numbers of pathological gamblers who are incarcerated (Rosenthal & Lorenz 1992).

Even where Gamblers Anonymous meetings are most concentrated, there is a lack of meetings in languages other than English, and ethnic minorities, women and young people often have difficulty identifying with and feeling accepted by other members. Of even more concern is the lack of awareness among the general public. A survey of callers to the Texas Council on Compulsive Gambling's hotline revealed that of those seeking help with a gambling problem, more than half had never heard of Gamblers Anonymous.

A preliminary comparison of the prevalence data reported earlier and the resources available for treatment and/or participation in Gamblers Anonymous, leaves one with the sad conclusion that only about one in a hundred pathological gamblers is currently receiving help.

The Need for Concern and Involvement by the Federal Government

Because of the rapid expansion of gambling activity in the United States and the problems that pathological gambling creates for society, there are a number of compelling reasons why the federal government should become involved in addressing pathological gambling issues:

(1) When the Commission on the Review of the National Policy Toward Gambling issued its Final Report (1976), no one could envision the new technologies that would bring about a qualitative change in gambling or the sheer amount of gambling and of problem and pathological gambling that exists today. The Commission report has long been outdated and there is presently no coherent national policy toward problem and pathological gambling.

(2) Gambling has become national in scope. While state governments have the primary responsibility of regulating gambling, much of the gaming industry is managed and/or conducted by large-scale interstate companies and thus fall under the jurisdiction of federal agencies. Players, meanwhile, win money in one state only to lose it in another. Cash is transferred from home state to host state. While the benefits of gambling (economic development, tourism, increased jobs and tax revenues) are local, the problems (criminal acts, family disruption, financial difficulties, etc.) are often exported to another state (Lesieur 1992).

(3) The Indian Gaming Regulatory Act of 1988 has directly and indirectly caused casino gambling to spread across the country. With this single act of the Congress, the federal government involved itself in the consequences.

(4) Congress has also interjected itself into the gambling debate by its enactment of laws banning certain gambling games (sports betting in 1992), permitting certain gambling activities (gambling ships) or making changes in existing games (interstate simulcasting of horse races). Even the idea of a national lottery is frequently raised on Capitol Hill.

Federal commissions also interject themselves into gambling issues, such as FCC rules on advertisements of gambling activities and IRS rulings on gambling wins/losses.

(5) The impact of problem gambling, and more especially pathological gambling, on the federal criminal justice system is severe. Yet treatment of underlying pathological gambling that leads to gamblers' crimes and subsequent imprisonment is ignored or neglected. While federal dollars are allocated for the education and rehabilitation of alcohol and drug offenders, nothing has been done for the person with gambling problems. There are virtually no Gamblers Anonymous meetings in the federal prison setting, and while prison rules prohibit on-site gambling, many observers believe prison officials often ignore the activity if it keeps inmates occupied (Rosenthal & Lorenz 1992).

(6) Gambling can also be a problem for the armed services. A 1992 study of military personnel found 2.1% of respondents scored as lifetime problem or probable pathological gamblers and suggested the need for further study of gambling problems among military personnel (Bray et al 1992).

While the treatment of pathological gambling was first begun in a Veterans Administration hospital, the lack of any federal policy toward pathological gambling, combined with the operation of video gaming machines on U. S. bases in foreign countries, suggests the need for education, intervention and treatment of pathological gambling in the military.

(7) While the federal government has traditionally provided leadership in research on issues of health and public safety through agencies like the National Institute of Mental Health, the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, there is no agency mandated to research gambling problems, nor has there been any recommendation from existing agencies to fund programs in public education of problem and pathological gambling.

(8) Ignoring the effects of pathological gambling serves as a barrier to the rehabilitation of substance abusers. There is solid evidence of overlap between pathological gambling and other addictive and mental disorders in professional treatment programs as well as Gamblers Anony-

mous (Adkins et al 1985; Custer & Custer 1978; Linden et al 1986; Ramirez et al 1983). Substance abusers are also at risk of relapse as a result of gambling problems.

A recent survey of mental health and substance abuse treatment professionals in Montana found that 60% had treated one or more clients in the past year whose gambling problems coincided with other addictive disorders or with a mental illness (Volberg 1992). Other estimates of the number of substance abusers who are problem or pathological gamblers range from 10 to 30% (Lesieur et al 1986; Lesieur & Heineman 1988).

The federal government has taken a leading role in addressing the prevention and treatment of chemical dependency. The federal government could potentially improve the effectiveness of prevention and treatment efforts for substance abusers if it took a similar leading role in relation to problem and pathological gamblers.

(9) In part, the states' need to raise revenues from gambling has been a response to the dramatic drop in program dollars available from the federal government. Thus, the federal government has played a role in the rapid spread of legalized gambling by state governments.

In short, pathological gambling is national in scope and should be addressed on the national level by the federal government.

Recommendations

Some experts have called for a moratorium on the further legalization of gambling (Thompson 1992). Others advocate a national initiative to address the issue of pathological gambling, such as a National Institute on Problem Gambling (Lesieur 1992) or another national commission to review policies toward gambling.

The recommendations of the Public Policy Committee of the National Council on Problem Gambling are a variety of cost-efficient and easy-to-implement steps:

(1) Recognition of the severity of pathological gambling by the adoption of a national policy statement about problem and pathological gambling.

(2) Inclusion of pathological gambling and substance abuse in the national health care plan.

(3) A national prevalence survey of problem and pathological gambling to develop prevalence rates of problem and pathological gambling, a social impact study to determine the costs and benefits of legalized gambling, and an assessment of the impact of pathological gambling on at-risk populations: youth, women, minorities and the medically indigent.

(4) Funding of the National Council on Problem Gambling to provide public education, training, prevention and early intervention services.

(5) Development of policies to address pathological gambling in the federal criminal justice system, including federal sentencing guidelines, treatment of pathological gamblers in the federal probation and/or prison system and continuing education for judges, prosecutors, probation officers, prison officials and others involved in the federal criminal justice system for identification, education and treatment of pathological gamblers.

(6) Ending the discrimination against pathological gamblers through exclusion from protection afforded to disabilities. Pathological gamblers should also be afforded the same inclusion in insurance coverage and all relevant federal legislation as are the chemically dependent.

Funding

A priority of a national initiative on problem and pathological gambling should be the development of funding mechanisms to support programs. These revenues would provide the needed services of prevention, early intervention, treatment and research, including but not limited to, public education, toll-free hotlines, outreach to the medically indigent and those at special risk, and ongoing epidemiological studies.

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rev. October, 1993

Mr. HYDE. Thank you, Mr. Ashe.

The next witness will be Frank J. Fahrenkopf, Jr., president and chief executive officer of the American Gaming Association.

Mr. Fahrenkopf.

STATEMENT OF FRANK J. FAHRENKOPF, JR., PRESIDENT AND CEO, AMERICAN GAMING ASSOCIATION

Mr. FAHRENKOPF. Thank you, Mr. Chairman and members of the committee. I want to, on behalf of the American Gaming Association, thank you for the opportunity to appear before you this morning, and, as you know, we are in opposition to the proposed bill.

The American Gaming Association is an organization that consists of most of the large publicly-traded stock companies that are involved in the gaming and manufacturing business, casino devices, and so forth.

As you said, Mr. Chairman, I have filed a lengthy statement with the committee attempting to deal with many of the things that the speakers before me have testified about and which some that are at the table with me now will testify about, including problem gaming and economic development.

But as I was sitting here this morning with the witnesses that were before you, I sort of reminisced. When I first started practicing law 30 years ago, I was in criminal defense. While I have been in Washington for a long time, I still consider myself a country lawyer from Reno, NV.

I was thinking about a question that I think Mr. Schumer asked, parroting what the Washington Post said the other day: If gaming is so good and all the benefits are there, why would anyone who is involved be opposed to a Commission who can validate it? And I thought back to a fundamental concept that I learned as a young lawyer, and that is that our form of democracy provides that anyone who is somehow accused of wrongdoing before the State, whether it be prosecution or if one of the members of this Commission were to be picked out, for example, by a columnist of the New York Times of having violated a campaign reform law, before the Congress of the United States would vote for a special prosecutor, whether it is the ethics committee, someone is going to take a look at the evidence and make a preliminary judgment as to whether there is probable cause before going forward, and I thought about that this morning in context of some of the witnesses.

I think the Congressmen and Senators who spoke on behalf of the industry and against the bill this morning clearly pointed out the 10th amendment arguments, and I don't—Mr. Flanagan—somebody referred that those are things you are going to have to wrestle with, and there has been some reference to a report that was done some years ago, and that report I don't want to just be completely moved over. We filed with staff a complete copy of that report for your review.

But that was a very, very important Commission. On that Commission were some very impressive individuals: Senator John McClellan, who made his reputation fighting organized crime and busting rackets; Charles Wiggins, who is now a ninth circuit judge and colleague of many here on this panel, a ninth circuit judge on the west coast; Senator Taft; Senator Scott.

And they looked very closely, and what their conclusion was after 3 years and millions of dollars in that study—I just want to take a moment and read just one short paragraph because it is important. Here is what that group concluded:

Because it is a social issue, the Commission has determined that gambling policy is the proper responsibility of the Government entity closest to the lives of the citizens, the State. States should have the primary responsibility for determining what forms of gambling may take place within their borders. The Commission does not believe that the Federal Government, which represents the Nation as a whole, should substitute its judgment for that of the individual States in this area.

I don't think I have to say anything more about jurisdiction. I want to move to the other part of the argument that the proponents make; namely, that there is some need out there for Governors or State legislatures to be provided information so that they can make a decision.

What I would say on that, and the first implication is that somehow organized crime, that is what came out of Mr. Jahoda—I think came out of it. I had as much trouble as some of the witnesses or of you to determine exactly what he said. I did quote, however—I wrote down his quote: No evidence of any links between organized crime and legalized gaming, no mob connection with licensed gaming; corporate gaming has done a magnificent job of cleaning up gaming and policing it. And if there was, in fact, an organized crime problem, I assume the representatives of the Federal Bureau of Investigation and law enforcement would be sitting here right now testifying to such an involvement.

Mr. HYDE. Go right ahead.

Mr. FAHRENKOPF. And I am pleased that the committee has agreed to listen to Mr. Jeremy Margolis, who was contacted, whose name I gave to the committee 10 days ago, and was contacted yesterday, and, interestingly enough, he put behind bars many of the people who Mr. Jahoda was talking about earlier today.

The reason that you don't have anyone here from the FBI is in many ways what Jahoda said. The industry has done a good job. Why? Because it has 75 publicly-held companies listed on the New York Stock Exchange, the American Exchange, the Nasdaq Exchange. They are companies that have had to pass SEC scrutiny, Justice Department, Treasury Department scrutiny.

And you know, the interesting thing, Mr. Chairman, is who owns these companies. Interestingly enough, the gaming institutions that are publicly-held companies are owned by institutional investors. They are owned by banks, they are owned by pension plans, they are owned by individual companies that are involved as institutional.

Quick numbers: 80 percent of Caesars, institutional investors; 81 percent of Circus Circus, institutional investors, 37 percent of Hilton; 67 percent of Mirage; 72 percent of Harrah's.

We have filed with our report two lists—a list of 200 studies that have been done in recent years by State legislatures, State governments, State institutions, independent groups, Peat Marwick, independent agencies that have looked at it. And again, if in fact the Governors and State legislators needed the assistance of the wisdom of the Potomac, Mr. Chairman, I assume that they would be lined up outside this door.

As you know, we offered 10 days ago the speaker of the house of Mississippi, who was in charge of the work that was done in that State to determine whether or not they should have gaming. He was going to come here and testify that they handled it all right by themselves, that they didn't need anyone from Washington helping them.

In this morning's Washington Post, on the front of the metro section, there is a report of what is happening in Maryland, where they are doing it the right way, the State is doing it. They have appointed people to a bipartisan commission, who are going out and making a determination.

The States can do the job. What we have had with the proponents of this bill—and I respect them, I respect the men who are on the bills in both Houses, but they are attempting to put their moral judgments about this industry on the American people, and they want the Federal dollar to be used to do it.

The States are doing a good job. That is where it belongs.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Fahrenkopf follows:]

PREPARED STATEMENT OF FRANK J. FAHRENKOPF, JR., PRESIDENT CEO, AMERICAN GAMING ASSOCIATION

I. Summary

Mr. Chairman and members of the Committee, thank you for the opportunity to present testimony on H.R. 497, the proposed establishment of a National Gambling Impact and Policy Commission. As president and CEO of the American Gaming Association, I appear before you today to express the opposition of our membership to the legislation. The American Gaming Association's membership includes most of the industry's largest publicly-traded gaming-entertainment companies and companies licensed to manufacture and distribute gaming equipment.

Proponents are saying a commission is needed to study the ramifications of the growth of gaming so the general public, elected officials and others can have the information they need to make decisions about gaming. While that sounds good at first blush, a close examination of the real intent of the proponents, as manifested in their own rhetoric, shows that their intent is the complete abolition, on moral grounds, of the gaming-entertainment industry.

I realize that as a member of this Committee it is always easy to support a study or commission. After all, who could possibly be against gathering more information? Who can argue with a study?

When opponents of gaming ask, as *The Washington Post* did recently, why gaming proponents are afraid of a study, I respond by saying look carefully at the motivation of the commission advocates. Frankly, it is a lot like someone telling you "we're going to appoint a special counsel to look into your tax returns and personal finances -- and you ought to welcome it. Because if you are innocent, it will clear the air."

Well, ladies and gentlemen of the Committee, such a proposal is outrageous and unfair on its face. And it is especially ridiculous when it is clear proponents of this commission see it as a first step toward their moral goal of abolition. Once that first step is taken, you have started down the slippery slope leading to a claim of Federal jurisdiction and control.

Putting aside for a moment the motivation of the legislation's proponents, there are two fundamental questions raised by this legislation: (1) Does the abolition of and/or regulation of gaming fall within the jurisdiction of the Federal government; and (2) is a study really necessary? The answer to both questions is clearly -- No. No, the Federal government clearly does not have jurisdiction over gaming in the states. And, no, there is no demonstrated need for such a study.

I will cover each of these questions in more detail later in this testimony, but to summarize:

A. **Regarding Jurisdiction.** It seems to me that the primacy of the states on this issue should never be more apparent than in this institution at this point in time. This Congress has made its mark by returning to the states the rights that have been abrogated by the Federal government over the past 40 years. You have recognized the mandate of the 10th Amendment to the United States Constitution that states:

> ***The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the States respectively, or to the people.***

Gaming has always been a matter of state jurisdiction. It has always been within the purview of the people of each state to determine the scope and extent of its legalization within their own borders.

It is incomprehensible that at the request of gaming opponents this Congress would reverse the course of history and allow the Federal government to insinuate itself into an area that has always been under the jurisdiction of the states.

B. **Regarding Need.** Forty-eight of the 50 states plus the District of Columbia and Puerto Rico have some form of legalized gaming. They have not taken that responsibility lightly. In some states, they have relied upon the legislative process; they have funded their own studies; and they have held hearings and made their own decisions. In other states, the people have expressed their will at the ballot box. The people and elected officials of each state know what is best for their own state.

Proponents of this new commission would have you believe there is a lack of information. We have submitted a list of more than 200 studies that are current and relevant. And these studies are a small percentage of the information available.

I have also taken time later in this testimony to address some of the issues gaming opponents, the primary sponsors of this legislation, raise when citing the need for more information. They bring up the old specter of organized crime, increased street crime, poor economic performance and problem gaming.

I am not here today claiming that the gaming-entertainment industry does not have problems. We do, but the problems we have are no different than those of any large visitor-dependent entertainment industry. The short answers to our critics are: *(1) There is no organized crime problem. (2) The street crime problems are not unique to gaming. (3) The economic benefits far outweigh costs. (4) The gaming industry is taking aggressive action to address the small percentage of people with a gambling problem.*

II. The Question of Jurisdiction

This is not the first attempt by opponents of gaming to use a study to further their cause. Some years ago, Congress created a national commission to study gaming. Interestingly enough, one of the Senate members of that commission was the late Senator John McClellan of Arkansas, who made his reputation during the historical Senate investigation of organized crime and racketeering.

The Commission on the Review of the National Policy Toward Gambling, after three years and three million dollars, drew a primary conclusion that remains valid today. I am filing a complete copy of the 1976 report with my written testimony, but I would like to read the key conclusion of that study:

> ***Because it is a social issue, the Commission has determined that gambling policy is the proper responsibility of the government entity closest to the lives of citizens – the state. ...States should have the primary responsibility for determining what forms of gambling may take place within their borders.***

The Commission supported its conclusion by further stating:

> ***The Commission does not believe that the Federal Government, which represents the Nation as a whole, should substitute its judgment for that of the individual States in this area. Gambling has customarily been controlled by State agencies, which can be flexible and responsive to local demands: the Commission finds no public interest in preempting this authority by the imposition of binding national standards...States should be left the determination of what forms of gambling, if any, are to be permitted; how to operate or regulate those forms of gambling that are authorized ...[and]...From a purely pragmatic standpoint, this should result in the evolution of more efficient and representative gambling policies in the United States, as different States experiment with different approaches, discarding those that are successful and emulating those that have been effective in other States.***

There is absolutely no need for Federal intervention today, because the individual states are perfectly capable of making their own judgments.

In fact, the primary sponsor of this legislation acknowledged as much when he introduced it last January. In his address to the House of Representatives, Congressman Frank Wolf said that New Jersey and Nevada have extremely effective regulatory structures. I accept the Congressman's acknowledgment that Nevada and New Jersey are effectively handling gaming policy, and would suggest that there is no reason to believe other states are not doing or cannot do equally well.

The bottom line is: whether to have gaming or not is the responsibility of each state. The states take these responsibilities seriously. Every election year new gaming-entertainment initiatives are considered by the voters on a state-by-state basis. The industry wins some and loses some of those votes, but it is the people in the state, people who would be directly affected by the outcome, who decide. In fact, in the 1994 election cycle, state or local initiatives were on the ballot in 16 states, plus the Navajo Nation. After careful study and consideration, the people in 11 states and the Navajo Nation voted against gaming. In two other states, the outcome of local referenda was mixed.

Ladies and gentlemen, the system works. We can trust the people to make decisions that directly affect them.

III. No Study is Needed

I must say I cannot, nor would I, argue that Congress does not have the jurisdiction to conduct a study, but proponents of this commission see it as a first step toward total abolition of gaming. As I said earlier, once this first step is taken, you have started down the slippery slope leading to a claim of Federal jurisdiction. And for what? The bottom line is that there is no need to spend the taxpayer's dollars on a Federal commission to study a state issue with the expressed purpose of developing data that already exists to help solve a problem that does not exist.

Proponents of this legislation say the study is needed because there just isn't sufficient, accurate data for the people and for elected officials at the state and local level to use in their deliberative process. They say a Federal study is needed to gather this information. That argument makes three equally inaccurate assumptions.

The first assumption proponents make is that a Federal study would provide information that would be equally valuable and useful in every state. Nothing could be further from the truth. Individual states make decisions based upon state and local issues such as economic conditions, tax base, labor pool, work force training, unemployment rate and welfare burden, etc.

Circumstances in states such as Mississippi, Missouri, Indiana and Virginia are likely to be totally unlike circumstances in Minnesota, Wisconsin, Oregon or Illinois. Each state must study and do its own analysis and, based thereon, the voters or their elected officials can make the right decisions. And ladies and gentlemen, that is exactly what has been happening around the country. As I said, in 1994 alone, 16 states and the Navajo Nation considered gaming issues and 12 and the Navajo Nation rejected those initiatives.

Just across the District line the state of Maryland is considering the issue of casino gaming. They are going about it the right way. They have appointed a special commission to study the issues as they affect Maryland. Through hearings and research, the elected officials of Maryland will have the information they need to make the decision that is right for Maryland. That is as it should be. However, another state without a horse racing and horse breeding industry, for example, would not benefit from the Maryland study, as it would not be responsive to that state's particular condition or needs.

Which brings me to the second assumption proponents of legislation make -- that there is inadequate information.

There is no shortage of information and studies. In fact, the very people who say we need the study because we don't have enough information use studies to make their case. I have submitted with my written testimony a list of more than 200 studies. And I am certain we have captured only a fraction of all the research that exists. These are studies done by independent, reputable firms such as Andersen Consulting, Ernst & Young, KPMG Peat Marwick and Smith Barney, and by many state legislatures or state research institutions in such states as Illinois, Wisconsin, Massachusetts, New York and Minnesota. These studies contain ample data on the very issues the proposed commission would study.

Let me review just three of the existing studies. These should give you an idea as to the quality of the studies that have been done.

(1) Riverboat Gambling and Crime in Illinois, Illinois Criminal Justice Information Authority, May 1994

This study was done after riverboat gaming had been in existence for two years. It was prepared for the City of Joliet and the Illinois State Legislature in response to concerns about the impacts a riverboat casino can have on the crime and law enforcement activities in a particular community. The three major findings are: (1) Riverboats are viewed very positively by city officials and law enforcement personnel based upon their interaction with riverboat staff; (2) Riverboat security personnel and local law enforcement tend to have close, positive relationships; and (3) Overall patterns of service calls and crime incidents in the City of Joliet and other Illinois riverboat towns remained stable or even declined after the riverboats began service.

(2) Toward Expanded Gaming: A Review of Gaming in Massachusetts (September 1993)*; Toward Gaming Regulation: Part I: Crime* (January 1994)*; and Toward Gaming Regulation: Part II: Problem Gambling and Regulatory Matters* (March 1994); Commonwealth of Massachusetts, Senate Committee on Post Audit and Oversight

This three-part study included a series of public hearings and examined the social and economic impacts of gaming. The study suggests that the state expand the state gaming commission, limit and regulate lottery expansion, and legalize four casino licenses based on strict requirements and regulations. The crime study found that there has been no increase in the number of public corruption cases in states which have legalized casino gaming, and that there is no statistical evidence proving that the introduction of gaming in a community will cause an increase in the crime rate. The third part of the study recommended that the state increase problem gambling education and treatment, using funds from the state lottery and the racing and gaming facilities.

(3) Staff Report on Casino Gaming Legalization, New York State Senate Finance Committee, Subcommittee on Racing, Gaming and Wagering, June 1994

This study is based on public hearings held throughout the state and on research by subcommittee staff. The report recommended that New York adopt and implement casino legislation. The staff also proposed strengthen further the regulatory, local referenda and licensing provisions contained in the legislative proposals. The report concluded that cooperative efforts with the racing industry, limited licensing, local referenda and public participation in development, along with specific enabling legislation, would lead to greater economic development potential for the state.

These are just three of the scores of studies that are already available. They not only demonstrate that such information exists, but that states are perfectly capable of conducting their own studies and reaching their own conclusions.

IV. Major Criticism of the Industry

I must conclude by commenting on four of the criticisms gaming opponents make of our industry.

A. **The Question of Problem Gaming.** The American Gaming Association has met with prominent leaders in the field who tell us that the vast majority of Americans are social gamblers who can participate in a gaming activity without harmful effects. Some gamblers cannot, however, and are referred to as problem or compulsive gamblers. Prevalence studies conducted in fourteen states show that the percent of those with a problem ranges from 1.7% in Iowa to 6.3% in Connecticut. Our view is that one problem gambler is one too many, and as good citizens it is our responsibility to address the problem through public education, corporate training and basic research.

A number of our members have been working with state and national organizations for many years to develop proactive corporate policies, public service announcements, employee assistance programs, funding of hotlines, speaker's bureaus, and training of employees. The American Gaming Association will continue this effort. We have created an industry-wide task force to develop a long-range strategy to reduce gambling addiction, raise public awareness and provide models for early intervention and treatment. Working in partnership with public and private organizations, we will promote industry-wide training programs and public outreach techniques.

We have also established a national foundation to (1) research improved treatment methodologies, (2) hold national conferences and seminars, and (3) develop and fund 1-800 hotlines for those seeking assistance.

In addition to the AGA's efforts, numerous states have independently developed programs to address the issue of problem gaming. To cite a few examples:

- The Mississippi Casino Operators Association and the local business community funded a public policy think tank to create a blueprint for the management of problem gaming in that state. Based upon think tank recommendations, the association will provide over $500,000 annually to fund a 1-800 hotline.
- New Jersey devotes the first $600,000 in fines collected by the gaming commission to this problem annually.
- Washington, Minnesota, Iowa and Missouri are among the states that have adopted policies and pledged resources to assist in public awareness and research activities.

The bottom line is that the vast majority of the public does not have a problem with gaming, and those who don't have a problem should have the opportunity to enjoy gaming if they choose to do so.

B. The Question of Organized Crime. It is time the organized crime issue was put to rest. There is no showing anywhere, be it FBI reports or other law enforcement reports, of organized crime activity in today's gaming-entertainment industry. To the contrary, gaming-entertainment today is owned by the same people who own other major industries -- stockholders. More than 75 publicly-traded companies, all under the stringent scrutiny of the SEC, own gaming interests. To give you an idea of who owns some of the major gaming companies, institutional investors own 80% of Caesars, 81% of Circus Circus, 37% of Hilton, 67% of Mirage and 72% of Harrah's.

In addition to the quality of ownership, no other industry has stricter regulation within the states. Nevada employs 372 regulators and spends $19 million to see that only legitimate interests are involved in gaming. In Nevada, CEOs, chief accountants, secretaries, all officers engaged in gaming, directors with over 1% of stock, and shareholders who own more than 10% of the company must all be investigated and licensed by the gaming commission.

New Jersey has similar laws, employs more than 800 regulators and spends $57 million to regulate its gaming.

Nevada and New Jersey are successful models other states are using in developing their own regulatory system. I will not argue that every state is doing the type of job Congressman Wolf agrees is being done in Nevada and New Jersey, but most of them have adopted stringent regulatory regimes, thereby demonstrating that states do not need Federal meddling to do a good job.

In fact, Jim Moody, supervisory special agent, FBI Organized Crime Program, in Congressional testimony in 1992 said, "As legalized gaming spreads throughout the United States, we are seeing that those states with strong regulations and enforcement are not experiencing an influx of organized crime activity."

C. **The Question of Increased Street Crime**. Critics and naysayers notwithstanding, there is absolutely no credible evidence that shows the introduction of legal gaming, because of the nature of the business, increases crime. An increase in the number of tourists in any community will bring more crime regardless of the venue. A perfect example of this is what has happened in Orlando, Florida. No one would argue that Mickey and Minnie Mouse cause more crime, yet according to the FBI, Orlando has a higher crime rate than Las Vegas (In 1992, Orlando experienced 7,719 crimes per one hundred thousand population compared to 6,749 for Las Vegas.) And when you consider the visitor-adjusted population, Orlando's crime problem exceeds both Las Vegas and Atlantic City (Visitor-adjusted 1992 crime statistics per one hundred thousand: Orlando, Florida--6,712; Atlantic City, New Jersey--6,576 and Las Vegas, Nevada--5,284.) (Source: WEFA Group, 1994.)

For example, in Illinois, State Police records indicate that overall patterns of service calls and crime incidents remained stable or even declined after the riverboats began service in the state. In fact, many communities with riverboat gaming, from Alton, Illinois to Davenport, Iowa to Gulfport, Mississippi, experienced decreased crime rates between 1990 and 1993. (Source: Ted Chiricos, Florida State University School of Criminology and Criminal Justice, 1993.)

D. **The Question of Economic Benefits**. Don't take my word for it. Ask the more than one million men and women whose jobs directly or indirectly support the industry about the economic benefits. Or ask the state and local governments that receive billions of dollars of tax revenues ($1.4 billion from the casino industry alone in 1994). There is no question that, just as with any expanding industry, some areas of the country will do better than others, but in the overwhelming number of cases, gaming-entertainment has been a boon to the communities where it is established.

As I have said, ask the people of Tunica, Mississippi, the Quad City area of Iowa or, Alton, Illinois. Even *The Washington Post*, no friend of gaming, in a July 20, 1995 editorial acknowledged that Connecticut, Louisiana, Mississippi, Oregon, South Dakota and Nevada have "reaped large fiscal benefits from the spread of gambling."

In any economic situation there are businesses that succeed and some that do not, but the evidence in support of the economic benefits is overwhelming. The following are a few facts that demonstrate the economic impact of gaming:

- In 1994, casinos paid $6.8 billion in salaries.
- Each $100 *million* in casino revenues brings with it $21.7 *million* in direct supply purchases, which generates 228 full & part time local jobs.
- Between 1992 and 1993, Atlantic City casinos spent more than $2 *billion* on supplier industries, 70% ($1.42 *billion*) of that was spent within New Jersey; $917 *million* of that in Atlantic County.
- In 1994, Harrah's estimated spending on goods and services in Illinois was $27.5 *million*, 61% going to local vendors.
- Home prices rose faster on the Mississippi Gulf Coast than anywhere in the U.S. during 1994, primarily due to casino business.
- After gaming was introduced, Bay St. Louis, Mississippi reduced (in 1992) property taxes by 85% and still increased its budget by $2.5 million.
- Between 1991-92, property values in Joliet, Illinois increased by 11%. When a second riverboat opened in 1993, values jumped another 12% over 1992-1993.
- Local areas within 35 miles of the 17 Native American casinos in Wisconsin enjoy a $400 million net economic gain from gaming revenue and new visitor spending.

In Atlantic City, it is true that the number of restaurants fell from 243 in 1977 to 146 in 1987, but when you look at the Atlantic City Metropolitan Statistical Area (MSA) which includes Atlantic County, the number of restaurants increased from 383 in 1977 to 848 in 1987, an increase of 120%.

Another culprit that opponents trot out is known as the "substitution theory." Somehow opponents argue every dollar spent on gaming, apparently unlike any other new industry, results in the loss of revenue somewhere else. That same logic for some reason isn't applied to money spent purchasing entertainment from theme parks, or movies, or baseball games. The "substitution theory" is highly controversial, to say the least.

The bottom line is there is a net increase in jobs and tax revenues, two positive economic indicators, when gaming-entertainment is introduced into a community. In other words, the economic pie gets bigger. We will take the facts over the theory any time.

V. Conclusion

We are not concerned with the outcome of an objective study. We have already seen what such a study will find (see the 1976 report). We are concerned with the manipulation of the process of the study and the final results by the proponents of this legislation -- lead by avowed, avid opponents of our industry.

There is no need for such a commission. It would be an unnecessary expenditure of taxpayer dollars on an exercise that would only result in repetition of information already available.

Those who oppose gaming-entertainment have been very effective in making their case on a state-by-state basis and that is where the debate belongs.

Mr. Chairman, let me conclude by saying simply: A commission to study the issue sounds logical and safe, but it will be costly and serve no purpose. In short, there is no need for the proposed commission. Those who oppose gaming have every opportunity to take their case to the states where our founding fathers intended such decisions to be made. That is where the debate belongs.

Gaming Studies and Periodicals

The following list of more than 200 studies and reference materials was compiled by AGA staff, and is not intended to be an exhaustive listing or a complete bibliography.

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FINAL REPORT

of the

COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING

Washington: 1976

COMMISSION ON THE REVIEW OF THE
NATIONAL POLICY TOWARD GAMBLING
2000 M STREET, N.W.
WASHINGTON, DC 20036

15 October 1976

Honorable Gerald R. Ford
President of the United States
Washington, D.C.

Honorable Nelson A. Rockefeller
President of the Senate
Washington, D.C.

Honorable Carl Albert
Speaker of the House of Representatives
Washington, D.C.

GENTLEMEN:

In accordance with the provisions of sections 804-808 of Public Law No. 452, Ninety-first Congress, the Commission on the Review of the National Policy Toward Gambling has the honor to submit its final report of findings and recommendations.

Respectfully yours,

Charles H. Morin

Charles H. Morin
Chairman

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FOREWORD

With this Report, the Commission on the Review of the National Policy Toward Gambling concludes its 3 years of research and hearings into the controversial and divisive subject of gambling. Our work is completed, the American people must now judge its accuracy and usefulness. What the Commission has tried to do is to set out what is known about each form of gambling and the possible consequences of its legalization. Based upon the facts contained in this Report, it is now the task of the Congress, and the States as well, to take the next step in developing—for the first time—a fair and reasonable national policy toward the existence of gambling.

This Report and its recommendations will surprise most Americans and may startle some. But those who are surprised or startled should carefully reflect on the significance of the fact that a pastime indulged in by two-thirds of the American people, and approved of by perhaps 80 percent of the population, contributes more than any other single enterprise to police corruption in their cities and towns and to the well-being of the Nation's criminals. If I were asked to describe simply the Gambling Commission's task, I could say it was to find out "why?"

Most Americans gamble because they like to, and they see nothing "wrong" with it. This being so, they see no real distinction between going to the track to place a bet and backing their favorite horse with the local bookmaker. And this truly free-wheeling logic—so consistent with the free enterprise philosophy of most Americans—permeates the country's judicial system: police, prosecutors, and courts.

The Report of the Commission contains a *hard* statement: "Contradictory gambling policies and lack of resources combine to make effective gambling law enforcement an impossible task under present conditions." Not "difficult"—not "frustrating"—not even "almost impossible"—but *impossible*. And why not? How can *any* law which prohibits what 80 percent of the people approve of be enforced?

"What should we do about this?" the Congress has asked this Commission. With a small, able, and very dedicated professional staff under the direction of a truly outstanding talent, seven citizens and eight experienced legislators have concluded that a joint venture is necessary between each of the 50 States and the national government, with some significant changes in the pattern of Federal laws. Each of the Commission's recommendations has been warmly debated and carefully thought out, and it would not be considerate to discard any of them lightly.

At its first meeting back in January 1974, the Commission made the decision to pursue its tasks with a small permanent staff and to perform its research function through contractual arrangements with established research firms. The wisdom of this approach was proven early and resulted in very substantial economies in the Commission's budget. But it is the staff alone which must be given the lion's share of the credit for meeting every deadline imposed upon it and for adhering strictly to the budgetary limitations of Congress. James E. Ritchie, the Executive Director, and his Deputy, Marilu Marshall, have truly earned the gratitude of everyone concerned with the national phenomenon of gambling. This Report would never have been possible within the allotted time were it not for these two extremely talented, knowledgeable, and aggressive prosecuting attorneys. It is my pleasure to take this opportunity personally to thank them for all they have done, and I know I speak for every member of the Commission.

Charles H. Morin

Charles H. Morin
Chairman

PREFACE

As Director of this Commission, and as a former Federal prosecutor involved in enforcement efforts against organized crime, I have had a unique opportunity to examine the subject of gambling in its entirety. Until the Commission began conducting its investigations and research 3 years ago, no such examination had been possible. Despite the work of previous study groups and individual scholars, information about gambling law, practice, attitudes, and behavior had been fragmented, inchoate, and often contradictory.

Seeing gambling in such comprehensive detail has considerably broadened my perspective toward it and led me to the inescapable conclusion that we can no longer afford to be ill-informed and complacent about a matter of such manifest national concern. Existing policies that accomplish little for the minority of the people, and frustrate the will of the majority, should not be perpetuated.

Inevitably, in the study of a subject so complex, certain questions remain unanswered and certain issues unresolved. In matters regarding gambling, particularly, many issues can only be decided ultimately by each individual according to his conscience. This is as it should be. Neither this Commission nor any other governmental body should attempt to impose its will on the public—or any segment of it. To that extent, this Report is complete, offering its conclusions and recommendations for the judgment of the American people and their elected representatives, who will best determine the wisdom and value of the Commission's work.

The Commission on the Review of the National Policy Toward Gambling was created by Congress in the Organized Crime Control Act of 1970 (P.L. 91-452). Its mission was to study gambling as it exists in America and to develop recommendations for the States to follow in formulating their own gambling policies. In its 3 years of operation, the Commission staff collected, reviewed, and summarized all available material on gambling. Staff members and consultants prepared more than 30 research papers and surveys on every aspect of gambling. In addition, the Commission held 43 days of hearings across the country, taking testimony from more than 275 Federal and State law enforcement officials and policy-makers, persons involved in every phase of legal—and illegal—gambling, and ordinary citizens who reflect the way their communities feel about gambling.

I personally would like to thank the members of this Commission, who so generously took time out from their busy schedules to debate the many complex issues before them. And to Charles Morin, our chairman, goes the deep appreciation of everyone connected with the Commission, for his concern, his leadership abilities, his continual encouragement, and his unfailing sense of perspective, which helped balance the diverse views brought to this undertaking.

The Commission is especially grateful to the many people in the industry—including those involved in racing, off-track betting, lotteries, casinos, and bingo—who were so generous with their time and thoughts. And a special thanks must go to the dedicated staff of this Commission, whose diligence and commitment to the project were exemplary. Without all of these people, this Report would not be possible.

The Report that grew out of their contributions represents the Commission's best efforts to develop rational policies toward gambling. This, in fact, is the first time that a national commission has sought to provide methodologically sound research and recommendations on this subject to each State and individual. While some differences of opinion understandably exist regarding the specifics of certain recommendations, this Report as a whole represents the aggregate judgment of all the commissioners. Ultimately, however, it will be the aggregate judgment of other groups of people—the citizens of the various States—who will determine their State's policy toward gambling; if enough of them disagree with a finding of the Commission, they will openly challenge that finding; this is appropriate and a function of democracy.

James E. Ritchie

James E. Ritchie
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INTRODUCTION

Gambling is inevitable. No matter what is said or done by advocates or opponents of gambling in all its various forms, it is an activity that is practiced, or tacitly endorsed, by a substantial majority of Americans.

That is the simple, overriding premise behind all the work of this Commission. Given this fact of life, the Commission has sought to determine the most productive and equitable treatment of this complex social phenomenon. Because it is a social issue, the Commission has determined that gambling policy is the proper responsibility of the government entity closest to the lives of citizens—the State.

This does not mean that gambling is a simple problem which lends itself to simple solutions. Far from it. Gambling is an issue so fraught with ingrained moral and philosophical dichotomies and unresolved social questions that no disposition of the subject can ever come close to being universally accepted. Attitudes toward gambling encompass the most sincere and high-minded ethical beliefs as well as the basest kinds of acquisitive instincts and exploitation.

In developing this Report, the Commission has adhered to an objective, pragmatic approach to its task: If gambling is inevitable, as we are certain it is, then who should regulate it, and how? That is the subject of the chapters which follow. This does not mean, however, that the Commission is insensitive to the invidious and emotional aspects of its subject. It has not addressed these social ramifications of gambling policy directly because, first, they are largely unsusceptible to objective analysis, and, second, because they involve ethical considerations that are beyond the legitimate purview of an investigating body of this kind.

It is important to raise these issues involving the social consequences of gambling to communities, however, because they must be debated by each State as it determines the gambling policies best suited to its citizens. Whatever a State determines its gambling policy to be, these issues will substantially affect its judgment.

MORAL AND ETHICAL CONSIDERATIONS. A significant number of Americans believe that gambling in any form is absolutely wrong, on both religious and secular moral grounds. By sanctioning gambling, States may be intruding into areas of sincerely held theological and ethical convictions. One approach to gambling may be to decriminalize it so that the variety of religious beliefs would determine whether an individual gambles or not or whether a community will have legal gambling, rather than letting government engage in something which a substantial minority believes not simply to be bad policy, but to be religiously wrong. It may be that legalization or decriminalization makes allegiance to government extremely difficult for people with deep moral convictions who are forced more and more to dissent from the actions of their government. It must be asked if the gain for the majority is worth the price of the alienation of the minority.

GAMBLING AND THE WORK ETHIC. There is no reliable way to calculate the effect on the work ethic of legalizing or decriminalizing gambling that was previously prohibited. If, through legal gambling, citizens are allowed or encouraged to make a profit or gain through chance rather than through work, the government may be undermining a basic social tenet of our culture.

GOVERNMENT AS GAMBLING ENTREPRENEUR. When a large segment of its population finds an activity objectionable, a State must decide whether it should allow and, in effect, promote that activity. Also, many people believe fervently that it is improper for government—especially democratic government in a capitalistic society—to compete in the marketplace with private enterprise and that State-sponsored gambling clearly violates that principle.

REVENUE VERSUS CRIME CONTROL. It is axiomatic that the two principal goals of legalized gambling—revenue raising and crime control—are incompatible. The taxation and other tribute necessary to generate significant profits for government may place the legal entrepreneur at an impossible competitive disadvantage with his illegal counterpart, who is not so burdened. If government is seriously to challenge the role of illegal gambling—particularly that part of it controlled by organized crime—then the legal entity may have to offer competitive odds and payoffs. It may also have to eliminate taxes on the bettor and the operator—which would, of necessity, eliminate the likelihood of substantial government revenue. States must determine which goal they should pursue in the formulation of their gambling policies.

GAMBLING AND REVENUE. Legislators have sometimes seen legalized gambling with its attendant revenue to State treasuries as a painless, voluntary form of taxation that takes the place of increases in income taxes or sales taxes. In fact, legal gambling is a regressive form of taxation—that is, the poor pay out a greater proportion of their income for it than the rich—while income taxes, at least, are progressive. It is also true that it is cheaper to collect income and sales taxes than it is to collect income from legal gambling games. States might consider lowering the regressivity of legal gambling by having a maximum payout to players with a minimum profit to the State—in other words, redistributing gambling money in the community that pays it out

PRACTICABILITY OF REGULATION. In many discussions of public policy, much has been made of the potentiality that the regulated will dominate the regulators. There is a danger that a gambling industry's growth can overtake a State's ability to regulate or control that industry. This is especially true for small States where the regulators are few in number and the State is dependent in large part on the income that industry generates. This danger exists, of course, when any industry dominates a State's economy, but States should be especially careful to monitor and control the special interests involved in gambling.

CREATION OF NEW GAMBLERS. The Commission's research has shown that the availability of legal gambling creates new gamblers. A government that wishes merely to legitimize existing illegal wagering must recognize the clear danger that legalization may lead to unexpected and ungovernable increases in the size of the gambling clientele.

This list of social consequences of gambling is by no means exhaustive; gambling policy no doubt involves ramifications that are not yet known or that cannot be resolved until various forms of legal gambling are attempted. The issues enumerated above, however, must be weighed carefully by any State that endeavors to formulate a gambling policy that best satisfies the needs and wishes of its citizens. Indeed, they might well serve as criteria against which States can measure—and perhaps formulate—their own goals and desires regarding the regulation and control of gambling. The issues also represent the first step in a complex social analysis that should continue long after the expiration of this Commission.

HIGHLIGHTS OF CONCLUSIONS AND RECOMMENDATIONS

Following are highlights of the Commission's major conclusions and recommendations, which are directed toward Federal, State, and local governments, law enforcement agencies, and privately operated gambling industries.

Chapter 1. National Gambling Policy

The Commission has concluded that States should have the primary responsibility for determining what forms of gambling may legally take place within their borders. It believes that the only role of the Federal Government should be to prevent interference by one State with the gambling policies of another and to protect identifiable national interests with regard to gambling issues. In line with these conclusions, the Commission recommends:

- That Congress consider enacting a statute that would insure the State's continued power to regulate gambling.
- That the Federal Government, in the exercise of its regulatory and tax powers, take care not to hinder State efforts to compete with illegal gambling operations.

Chapter 2. Federal Gambling Statutes

In its extensive study of Federal gambling statutes—both civil and criminal—the Commission has concluded that a continued Federal effort against certain gambling operations is both necessary and desirable. This finding notwithstanding, the Commission has determined that some of the Federal statutes should be amended and that the Government's enforcement policies in some areas should be reevaluated. Specifically, the Commission has found that the Federal income tax on gambling winnings is the single greatest obstacle to effective competition with illegal gambling operations; it believes that States which are attempting to compete with illegal gambling should not have their efforts in this direction thwarted by the Federal Government. Also along these lines, the Commission has determined that the Federal wagering excise and occupational stamp taxes interfere with the ability of a legal gambling industry to compete with its illegal counterpart, and that such taxes, if they are to exist at all, are more appropriately levied by State governments. Finally, the Commission has determined that civil remedies against gambling violators ultimately will prove more successful than current criminal statutes in suppressing illegal gambling. In light of these conclusions, the Commission recommends:

- That winnings from legal gambling entities be excluded from gross income for Federal income tax purposes.
- That the provisions of Federal criminal statutes dealing with the interstate aspects of gambling violations be retained and incorporated into a single gambling statute designed to eliminate the overlap and duplication that the current statutes contain.
- That the Federal intrastate gambling statute (18 U.S.C. 1955) be amended in such a manner as to insure that the statute is employed only against the higher level gambling operations of organized crime.
- That the Federal wagering excise and occupational stamp taxes be repealed
- That the Federal Government make greater use of civil remedies against gambling offenders

Chapter 3. State and Local Gambling Enforcement

Through its research of gambling law enforcement practices by State and local law enforcement agencies, the Commission has determined that, for a variety of reasons, most local police departments cannot deal effectively with large gambling operations, and that, too often, enforcement efforts are directed against low-level gambling violators while high-level operators remain untouched. Lack of resources, inadequate legal tools, noncooperation by the courts, interjurisdictional problems, and corruption are the principal roadblocks to effective gambling law enforcement by local authorities. To remedy these inadequacies, the Commission recommends:

- That less emphasis be placed on enforcement against low-level gambling offenders and that State and county law enforcement agencies, in conjunction with prosecutors, direct their efforts against high-level gambling offenses, particularly bookmaking and numbers operations.
- That specialized gambling units be created in State and large urban police departments.
- That States consider removing statutory prohibitions against public social gambling.
- That States having a substantial amount of illegal gambling authorize the use of electronic surveillance in gambling cases where such authorization does not presently exist.
- That prison terms and substantial fines be imposed for major gambling offenders, particularly persons known to be associated with organized crime.

Chapter 4. Survey of American Gambling Behavior

The Commission has examined the results of its comprehensive gambling survey and concluded that the great majority of the survey's findings are accurate and reliable. However, the Commission takes issue with the survey's findings in one area—the volume of illegal gambling that takes place each year. The Commission has determined that the survey's estimate of $5 billion for the volume of illegal gambling is too low, and it has concluded that as long as certain extremely popular forms of gambling remain illegal, an accurate determination of the amount of such gambling that occurs is impossible to achieve by any method. Following are highlights of the survey's findings regarding the gambling habits and attitudes of Americans:

- Sixty-one percent of the adult population—about 88 million people—participated in some form of gambling in 1974. Of these, some 19 million wagered only with friends in a social setting, and about 69 million people—48 percent of the adult population—patronized some form of legal or illegal commercial gambling.
- Information compiled on gambling activity in Nevada reveals that more Nevadans gamble, gamble more frequently, and spend more on gambling than the Nation's population as a whole. This indicates that the widespread availability of legal gambling increases the gambling population and rate of participation
- Almost 80 percent of respondents nationwide said they favored legalization of some form of gambling, but no single form received majority support for legalization in a State where it was not already legal. Opposition to legalization was strongest against numbers and sports betting—particularly on high school and college events.
- Participation in illegal gambling is greater in States where limited legal gambling is available than in States where no form of gambling is legal.

Chapter 5. Legal Gambling Industries

The Commission studied the five principal forms of legal gambling—casinos in Nevada, parimutuel horseracing and dogracing, off-track betting, lotteries, and bingo.

With respect to casinos, the Commission has concluded that Nevada State gambling regulations are on the whole sufficiently stringent and that enforcement of the regulations is sound. It has also found that the influence of organized crime in Nevada casinos has been significantly reduced during the past 10 years. Nevertheless, it has determined that some aspects of Nevada casino gambling should not be reproduced elsewhere.

In the area of parimutuel racing, the Commission found that, in most States, the takeout—money not returned to bettors—is too high. It also found that a serious potential for conflict of interest exists when racing commissioners are permitted to hold financial interests in racetracks they regulate. On the issue of off-track betting, the Commission has concluded that the passage of a Federal law banning all interstate off-track betting would interfere with each State's ability to determine its own gambling policies and that such interference undermines the national policy toward gambling recommended by the Commission. Regarding lotteries (and off-track betting), the Commission has found that the active publicity given these forms of gambling by the States induces citizen participation contrary to the public's best interest. Finally, the Commission has found that commercial bingo operators running games for the benefit of charitable groups often retain most of the profits for themselves.

In accordance with these findings, the Commission recommends:

- That States contemplating the legalization of casinos (1) incorporate a series of player protection provisions into State regulations; (2) establish casinos that are operated by private industry rather than government; and (3) refrain from building casinos in urban areas where lower income people reside.

- That the on-track takeout in parimutuel racing be reduced in order to increase revenues to the racing industry, the bettors, and ultimately, to the State, which will benefit from a more prosperous industry
- That racing commissioners be prohibited from holding any financial interests in racetracks within their jurisdiction and that States enact legislation requiring full disclosure of all financial interests in the operation of racing meetings
- That Congress not pass a pending bill that would abolish all interstate wagering, and that, instead, States desiring to insure that no interstate wagers be taken on races within their borders pass prohibitory legislation to this effect.
- That States fully inform the public of the odds of winning in all types of lotteries and limit their lottery promotions to advertisements informing the public of the existence and nature of the game offered, and that the same advertising restrictions apply to government-operated off-track betting systems.
- That State regulators require bingo operators to provide full public disclosure of the percentage of total wagers received by the operator, the players, and, where applicable, the charity sponsoring the games.

Chapter 6. Illegal Gambling Industries

The Commission has found that the three principal forms of illegal gambling today are numbers, horse bookmaking, and sports betting. It has determined that while large illegal gambling casinos once could be found in every city in the country, such establishments have been virtually eliminated as a result of Federal legislation enacted during the 1960's. However, the Commission did find some evidence that small illegal casinos, generally offering only one or two games, still exist in some areas.

Through hearings around the country, and from testimony by law enforcement officials, defense attorneys, and persons involved in illegal gambling, the Commission has determined that there is no uniformity of organized crime control of gambling throughout the country; in some cities such control exists; in others, not. The Commission rejects the notion that organized crime controls all illegal gambling or that all illegal gambling provides revenues for other illegal activities. Accordingly, the Commission has concluded that independent operators of illegal gambling pose a less serious threat to society than operators who are part of a syndicate or members of organized crime, and that such independent illegal gambling businesses generally should not be the target of Federal law enforcement investigations

The Commission has examined all of the arguments presented to it in support of and in opposition to the legalization of sports-by-event wagering. It has concluded that a legal single-event sports wagering system would provide relatively little revenue for the State, and it has determined that existing Federal tax policies make effective competition with illegal bookmakers impossible. The Commission believes that a sports betting operation that is unable to compete with the illegal operators is in grave danger of creating many more customers for the illegal bookmakers. Consistent with these findings, the Commission recommends:

- That States refrain from legalizing single-event sports wagering under the present structure of Federal taxation.
- That in the event Federal tax policies are amended, as recommended by this Commission, States considering legalization provide for extensive public debate on the issue to take place.
- That States which decide to legalize single-event sports wagering incorporate into their enabling legislation a prohibition against wagering on amateur sporting events.
- That States choosing to legalize sports card wagering not do so under existing lottery statutes but, rather, offer a specific voter referendum on the issue.

The foregoing comprises only a partial listing of the Commission's recommendations. The chapters that follow include many additional recommendations along with more detailed explanations of the reasoning behind the Commission's conclusions. The reader also will find substantial historical gambling information in the ensuing pages along with in-depth descriptions of the many games that constitute the American gambling phenomenon

CHAPTER 1. THE NATIONAL POLICY TOWARD GAMBLING

THE NATIONAL POLICY TOWARD GAMBLING: The Commission believes that the States should have the primary responsibility for determining what forms of gambling may legally take place within their borders. The Federal Government should prevent interference by one State with the gambling policies of another, and should act to protect identifiable national interests. The Commission recommends that Congress consider enacting a statute to insure the States' continued power to regulate gambling.

One of the foremost concerns of the authors of the United States Constitution was how to divide authority between the National Government and the States. While numerous powers were explicitly delegated to the Federal Government, many others were reserved as matters for State control. The precise definition and scope of those powers have been the subject of long-standing debate.

Throughout American history, the prohibition and regulation of gambling activity has largely been a function of the States. Federal involvement with gambling did not begin until the late 19th century, when Congress put an end to the operation of corrupt lotteries by denying them the use of the mails and the ability to transact business across State lines. The States had been deemed incapable of dealing with this problem themselves, since only the Federal Government had jurisdiction over the interstate aspects of lottery operations.

The next significant Federal action dealing with gambling did not occur until 1949, when Congress enacted legislation to eliminate the gambling ships which had been operating off the coast of California. In the years that followed, the determination that organized crime had become a national problem resulted in a strengthening of the Federal antigambling effort, since gambling was believed to be a major source of revenue to the criminal syndicates. The Johnson Act, passed in 1951, limited the interstate transportation of gambling devices. Statutes enacted in 1961 prohibited the interstate transmission of wagering information, the interstate transportation of gambling paraphernalia, and the use of interstate commerce facilities to aid an illegal gambling enterprise. The Organized Crime Control Act of 1970 further extended Federal jurisdiction over gambling, making it a Federal offense to operate certain illegal gambling businesses, without requiring proof of any specific interstate element, and subjecting gambling-related bribery of State and local officials to Federal prosecution. In each case, Federal action was seen to be necessary because of the inability of the States to solve a problem by themselves. Federal legislation in the gambling area has also been predicated on the need to prevent the facilities of interstate commerce from being used so that the gambling policies of some States interfere with the gambling policies of other States.

In addition, Congress has affected gambling activities through the exercise of its taxing powers, by levying excise and occupational taxes on gambling operations and a stamp tax on gambling devices, and by subjecting gambling winnings to the Federal income tax.

With those exceptions, the determination of the legal status of gambling-related activities has been left to the States, although the Federal Government may retain exclusive jurisdiction over gambling that occurs on Federal enclaves, such as Indian reservations and military posts.[1] Congress has enacted legislation from time to time to control gambling in those locales.

There is great diversity among the States concerning legalization of the various forms of gambling. Thirty-one States permit parimutuel wagering on horseracing, 13 States conduct lotteries, 1 State sanctions casino gambling and sports bookmaking, and varying treatments exist for dogracing, bingo, card playing, and off-track betting. To a considerable extent, these different State policies have resulted from the holding of referendums, in which the people themselves have directly determined the policies of the States. Further, States differ in their criminal prohibitions of gambling—for example, some States, like Indiana, make it a crime to place a bet, while in others only the operator of the game is punishable.

THE NEED FOR FEDERAL RESTRAINT

This diversity of treatment reflects the fact that the populations of the States differ in their views on gambling. The Commission does not believe that the Federal Government, which represents the Nation as a whole, should substitute its judgment for that of the individual States in this area. Gambling has customarily been controlled by State agencies, which can be flexible and responsive to local demands; the Commission finds no public interest in preempting this authority by the imposition of binding national standards. While we express no predisposition on the appropriate roles of State and Federal Governments in the regulation and control of other activities, we do believe that where gambling is concerned there should be a considered reluctance on the part of the Federal Government [illegible] The States should be left the determination of what forms of gambling, if any, are to be permitted; how to operate or regulate those forms of gambling that are authorized; and what the objectives of any changes in present laws are to be, based upon such criteria as those analyzed by the Commission later in this Report. From a purely pragmatic standpoint, this should result in the evolution of more efficient and representative gambling policies in the United States, as different States experiment with different approaches, discarding those that are unsuccessful and emulating those that have been effective in other States. The Federal Government, in the exercise of its regulatory and tax powers, should not unnecessarily impair State efforts to compete with illegal gambling operations. And States that choose not to give legal sanction to gambling in some or all of its forms should not have it imposed upon them by either their sister States or the Federal Government. We recognize that some would urge a stronger role for the Federal Government, and would have Congress exercise every opportunity to control gambling, such as by denying even legal State gambling operations the access to interstate facilities. We believe, however, that the States are capable of making such judgments, and that the Federal Government should not subject them to arbitrary restraints.

There are, however, instances where positive action by the Federal Government may be necessary to the protection of identifiable national interests. Where gambling is connected to organized criminal syndicates of interstate dimensions, Congress should act to suppress it. Where gambling is the cause, or the result, of a systematic corruption of State or local law enforcement officials, Congress should impose a remedial Federal presence. Where gambling operations are too widespread and complex for State agencies to handle, Congress should step in to assist them. Federal law enforcement projects may also be designed to demonstrate how effective gambling prosecutions can be carried out at the State level

The proposition that the States should determine their own gambling policies is consistent with the historical role played by the Federal Government. Congress has generally protected the autonomy of the States, exempting gambling which is legal in the State where it occurs from the application of the Federal criminal laws. Indeed, Congress has justified its actions as designed to assist the States in the enforcement of their gambling laws. Accordingly, a national policy which assigns to the States the determination of what forms of gambling are to take place is merely a reaffirmation of the present position of the Federal Government. To the extent that the Federal gambling statutes interfere with the ability of the States to set their own gambling policies without the presence of an overriding national concern, these statutes should be revised. And to the extent that the practices of the Federal agencies vary from this standard, they should be changed. Therefore, the enforcement history of each Federal gambling statute has been analyzed by the Commission to determine if the effect of the law is compatible with the national policy.

In addition to reviewing the utilization of particular Federal gambling statutes, it is necessary to determine if the body of Federal gambling law taken as a whole interferes with the ability of the States to determine their own gambling policies.

TAXATION

In many States, gambling has been deemed an appropriate method of raising revenue to support the costs of government, either through direct State operation or a system of licensing fees and taxes. The authority of the Federal Government to tax these State gambling operations cannot be questioned.[2] The Constitution contains no express limitations on the power of Congress to tax the instrumentalities of State government, and the Supreme Court has rejected the argument that activities unessential to the preservation of State government should be immune from Federal taxation, even if the Federal tax is collected from a State treasury.[3]

Moreover, "a federal excise tax does not cease to be valid merely because it discourages or deters the activities taxed. Nor is the tax invalid because the revenue obtained is negligible." Even the intent of Congress "to curtail and hinder" the activity subject to the tax does not necessarily invalidate the legislation, so long as the intent to tax is also present.[4] Accordingly, the Supreme Court has upheld the Federal excise and occupational tax on wagering,[5] which applies to certain types of gambling regardless of whether State law permits such activity.

Nevertheless, the Commission believes that Congress should take great care in the exercise of its taxing powers so as not arbitrarily to discourage State policies. Not only might the Federal Government stifle State initiatives in raising revenues to meet the expenses of State and local government, but Federal taxes on State gambling operations may render State governments incapable of competing with those illegal games they seek as a matter of State policy to eliminate through the provision of a legal alternative. The Federal Government should cooperate fully with the States, so that inflexible taxation policies do not bring about unintended results. As Alexander Hamilton, who became the Nation's first Secretary of the Treasury, cautioned in the Federalist Papers,

> As far as an improper accumulation of taxes, on the same object, might tend to render the collection difficult or precarious, this would be a mutual inconvenience, not arising from a superiority or defect of power on either side,

> but from an injudicious exercise of power by one side or the other, in a manner equally disadvantageous to both It is to be hoped and presumed, however, that mutual interests would dictate a concert in this respect, which would avoid any material inconvenience.[6]

We believe that the admonition of Hamilton is still appropriate.

COMMERCE CLAUSE

Gambling-related activities have traditionally been considered within the States' general police power to regulate, and Federal law enforcement jurisdiction over gambling-related activities has been limited to the power of Congress to regulate interstate commerce.[7] Over the years, the scope of Federal powers under the Commerce Clause has greatly expanded, with Congress reaching activities previously thought to be beyond its authority.[8] The Organized Crime Control Act of 1970 for the first time [9] made certain violations of State gambling laws Federal offenses "whether or not an interstate connection or effect is established for the particular crime." [10] Deferring to the findings of Congress that illegal gambling businesses of a given size per se have an effect upon interstate commerce,[11] the courts upheld the statute under the theory that "where Congress has the power to regulate a clearly defined class of activities, it is not necessary to show an interstate connection in any particular case." [12] Thus, even purely local gambling activity can now be the subject of Federal legislation.

The power of Congress to regulate under the Commerce Clause "is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the Constitution." [13] And if a State law "comes into contact" with a Federal regulation, the Constitution provides that the Federal law is supreme and must prevail.[14] Consequently, given the determination underlying the 1970 act that a sufficiently large gambling operation by its very nature affects interstate commerce, Congress might well adopt a comprehensive Federal scheme of gambling regulations, which could have the effect of preempting the field.[15] Congress has never expressed this intention; indeed, three of the Federal gambling statutes contain explicit antipreemption provisions,[16] indicating the intent of Congress that its impact be strictly circumscribed. Traditionally, State regulations of such conduct have been permissible so long as they do not unduly burden or discriminate against an activity of interstate commerce.[17] Although these State laws carry a high presumption of validity, the restriction imposed by the Commerce Clause is important, since it places a potential limitation on the ability of the States to permit or prohibit gambling activities within their borders.[18]

It is noteworthy that there has never been a successful judicial challenge of a State gambling statute on the grounds that it interfered with interstate commerce Indeed, this is most unlikely to occur. Nevertheless, the historical development of the Commerce Clause suggests that the expansion of Federal jurisdiction may occur in ways not presently foreseen.[19] Moreover, statutes once enacted by Congress may be interpreted by the enforcement agencies and the courts to have a more extensive scope than their legislative sponsors had anticipated.[20] Because the Commission is charged with recommending gambling policies for the future, any potential problems in the jurisdictional framework upon which our recommendations are based should be anticipated and, where necessary, corrected by remedial legislation. The Commission thus believes that Congress should consider taking action to protect the States' continued authority to determine their own gambling policies.

FEDERAL LEGISLATIVE RECOMMENDATION

An appropriate method of achieving this objective would be the enactment of a Federal statute specifically empowering the States to regulate gambling within their borders.[21] It was by similar means that Congress protected State regulation and taxation of insurance in 1945,[22] after the Supreme Court had held insurance to be an activity of interstate commerce.[23] Congress responded to the Court's ruling by passing a statute consenting to the regulation of the insurance business by the States. The Supreme Court upheld this approach, emphasizing that the statute had put the full weight of Congress behind the State legislation to protect it from attack on jurisdictional grounds.[24] Congress thus established the validity of State insurance regulations, which otherwise might have been challenged as unreasonable burdens on interstate commerce.

This approach has been taken by Congress and upheld by the Supreme Court in several other areas as well,[25] and it would be equally appropriate if applied to State regulation of gambling. At a stroke, Congress would protect legitimate State gambling statutes—whether civil or criminal—from judicial challenge on the ground that they improperly interfered with interstate commerce, thereby insuring that State autonomy in the regulation of gambling would be reconciled with the authority of Congress to legislate in the national interest. More important, such a statute could provide that Federal agencies would be unable to interfere with State gambling policies without explicit congressional authorization.[26] This elevation to de jure status of the current de facto policy of the Federal Government to leave the regulation of gambling to the States would, by removing doubt about the scope of State jurisdiction, serve to provide a solid foundation for the future development of sound gambling policies.

The Commission emphasizes that such a statute would not foreclose the authority of Congress to legislate with respect to gambling where a Federal presence became necessary. Congress could selectively enact statutes concerning those areas which it deemed to involve the national interest, and could act to prevent the channels of interstate commerce from being used by some States to interfere with the gambling policies of other States. We submit that such a protection of State and national interests would conform with the sound principles of federalism upon which this country was established.

FOOTNOTES

[1] See Appendix "Gambling in Federal Enclaves," by Peter W Waldmeir, Legal Researcher, National Gambling Commission

[2] Enactments levying taxes made in pursuance of the Constitution are as other laws are "The Supreme Law of the Land" Article VI "the first of the powers conferred upon Congress is the power 'To Levy and collect Taxes, Duties, Imports and Excises,' Article I, Section 8 ... barring only exports from any State, Article I Section 9 the Power of Congress to tax reaches every subject" *New York et al v. United States* 326 U S 572 575 (1945)

[3] *Helvering v. Gerhardt* 304 U S 405 411 419 1973

[4] *United States v. Kahriger* 345 U S 22 27 28 1953 overruled on other ground

[5] Ibid 26 U S C 4401 4411 The unlawfulness of an activity does not prevent its taxation *License Tax Cases* 5 Wall 462

[6] *The Federalist* No 33

[7] "The Congress shall have Power . . . To regulate Commerce with foreign Nations and among the several states and with the Indian Tribes," U.S. Constitution Article I Section 8, cl 3

[8] Congress has used this clause to establish Federal jurisdiction in such areas as child labor and civil rights

[9] Prior to 1970, Federal jurisdiction was based on the "authority of Congress to keep the channels of interstate commerce free from immoral and injurious uses" *Caminetti v. United States,* 242 U S 470, 491 (1971), Senate Report No 91-617

[10] Stern, "The Commerce Clause Revisited–The Federalization of Interstate Crime," 15 ARIZ LAW REV 273

[11] Senate Report No 91-617

[12] Resch, "The Scope of Federal Criminal Jurisdiction Under the Commerce Clause," 1972, 4 UNIV ILL LAW FOR 815. The holding in *Perez v. United States* 402 U S 146 (1971), establishing Federal jurisdiction over loansharking, has been applied by the Federal courts to syndicated gambling. See *United States* v. *Ceraso*, 467 F2d 653, 657 (3d Circuit, 1972)

[13] *Gibbons v. Ogden* 2 U S (9 Wheat) 1, 196 (1824).

[14] *Wilkerson* v. *Rahrer*, 140 U S. 545, 556 (1891), Article VI, U.S. Constitution (the supremacy clause)

[15] By way of illustration, State prohibitions in the 19th century of the sale of alcohol were invalidated to the extent that they barred the sale of liquor which had traveled in interstate commerce, since "a subject matter which has been confined exclusively to Congress is not within the police power of the state." *Leisy* v. *Hardin*, 135 U S 100, 108 (1890). There the intent of Congress to maintain free traffic in alcohol was inferred from its silence; in the case of gambling a court might rule that Congress had "occupied the field" to the exclusion of the States. See *Rice* v. *Santa Fe Elevator Corp* 331 U S 218 (1946)

[16] 18 U.S.C. 1084, 18 U S.C. 1953, Section 811 of the Organized Crime Control Act of 1970

[17] See *Southern Pacific v. Arizona*, 325 U S 761 (1945) Courts, when considering State statutes that allegedly unduly burden interstate commerce traditionally "weigh" the State interest involved against the burden that the State law places on interstate commerce. Thus, the higher the State interest, the greater the burden on interstate commerce that will be needed to invalidate the State statute For authority that the States may tax and regulate interstate commerce if they do not unduly burden it, see the cases of *South Carolina State Highway Dept v. Barnwell Bros*, 303 U S 177 (1938) *General Trading Co v. State Tax Commission*, 322 U S. 335, *Parker* v. *Brown*, 317 U.S. 341; *Huron Portland Cement Co.* v. *Detroit*, 352 U.S. 440 (1960), *Mintz* v. *Baldwin*, 289 U.S. 346 (1933); *Bibb v. Navaho Freight Lines Inc* 359 U S 520 (1959)

[18] Chief Justice Melville W Fuller writing for the minority in the case which first extended Federal Commerce Clause jurisdiction to gambling activities in 1903 observed that "if lottery tickets had been deemed articles of commerce" in a case recently decided, the State statute "would have been invalid as a regulation of commerce." He went on to ponder whether, "if a State should . . engage in the business of lotteries could it enter another State, which prohibited lotteries, on the ground that lottery tickets were the subjects of commerce? On the other hand, could Congress compel a State to admit lottery matter within it, contrary to its own laws?" *Champion v. Ames* 188 U S 321 370 (1903)

[19] See Hirsch, "Federal Regulation of Local Activity: The Demise of the Rational Basis Test," 1972 LAW & SOC ORDER 683

[20] For a discussion of agency enforcement policies regarding gambling devices, see op. cit. Resch, 810

[21] See Appendix, Model Federal Statute, Section 4

[22] The McCarran Act, 59 Stat. 34 (1945), 15 U S.C. 1011-1015

[23] *United States v. South-Eastern Underwriters Association,* 322 U S 533 (1944)

[24] *Prudential Insurance Co v. Benjamin*, 328 U S 408 (1946) The Court, at 429-430, observed that the purpose of Congress was to "give support to the existing and future state systems for regulating and taxing the business of insurance . . . (by) removing obstructions which might be thought to flow from its own power, whether dormant or exercised, except as otherwise expressly provided . . . (and by) declaring expressly and affirmatively that continued State regulation and taxation of this business is in the public interest and that the business and all who engage in it shall be subject to the laws of the several States in these respects."

[25] This was the method used to "remove the impediment" to the enforcement of State prohibitions of alcohol in the 19th century. Op. cit. *Rahrer*, 564. Congress enacted legislation which gave effect to State prohibitions by forbidding the sale of liquor in a State, even though it had been brought in through interstate commerce, when State law forbade the sale of alcohol. This policy was effectuated in a two-step process The Wilson Act, 26 Stat. 313 (1890) was upheld in *Rahrer*, ibid , and The Webb-Kenyon Act, 37 Stat. 699 (1913), was upheld in *Clark Distilling Co v. Western Maryland RR*, 242 U S 311 (1917). The ultimate effect was to subject to the police power of the States something that had previously been excluded from their control by reason of its being a subject of interstate commerce The Supreme Court, in upholding this approach, observed that "Congress has not attempted to delegate the power to regulate commerce . . . it has taken its own course, and made its own regulation, applying to those subjects of interstate commerce one common rule." Op. cit. *Rahrer*, 562. The fact that the effect was to permit different States to treat alcohol in different fashions did not invalidate the legislation, since Congress had decided that the determination by the States of whether alcohol was to be permitted within their borders was a proper way for this aspect of commerce to be regulated Other examples of consent statutes include the Lacey Act, 31 Stat. 188 (1900), concerning migratory game birds; the Hawes-Cooper Act, 45 Stat. 1084 (1929), concerning convict-made goods and the Renovated Butter Acts, 32 Stat 193 (1902), concerning oleomargarine. See Note, "Congressional Consent to Discriminatory State Legislation," 45 COLLREV 927, 932 (1945). The staff is grateful for the assistance of Professor Jesse Choper of Boalt Hall

[26] See Appendix, Model Federal Statute, Section 4.

CHAPTER 2. FEDERAL GAMBLING STATUTES

This chapter constitutes the Commission's final review of existing Federal statutes concerning the prohibition, regulation, and taxation of gambling activities. The review includes a discussion of criminal, tax, lottery, and miscellaneous statutes relating to gambling; a study of the congressional intent upon which each statute is based; an analysis of the utilization of each statute, using data provided by the Federal agencies having enforcement powers in the respective areas, as well as other data gathered through the Commission's independent research and surveys; and a discussion of whether or not each statute is consistent with the national policy toward gambling. The Commission has recommended changes in law or policy wherever it believed the statutes to be contradictory to the national policy or inefficient in the implementation of that policy

CRIMINAL STATUTES

Statutes Prohibiting Interstate Gambling Activity

18 U.S.C. 1081–1083. Modern Federal legislation outlawing certain gambling activities began in 1948 with the passage of 18 U.S.C. 1081–1083, prohibiting the operation of gambling ships off the coasts of the United States.[1] The gambling ship statute accomplished its purpose soon after its enactment and casino ships which had become a common feature of the California coast in the 1940's disappeared.[2]

15 U.S.C. 1171–1177. The Special Senate Committee to Investigate Organized Crime in Interstate Commerce, headed by Senator Estes Kefauver, was established in 1950. It produced a group of statutes, 15 U.S.C. 1171–1177, known as the Johnson Act, which prohibits the interstate transportation of gambling devices. The act was aimed at "nation-wide crime syndicates" [3] inasmuch as the major distributors of such devices during the 1940's were determined to be financed by organized crime. According to the legislative history, its main purpose is to support State policies outlawing such devices as slot machines. However, it also provides an exemption for such transportation into a State where the devices in question are legal.[4]

Throughout the 1950's, the main Federal efforts in the gambling field were those of the Internal Revenue Service under the wagering excise and occupational stamp tax statutes, 26 U.S.C. 4401 and 4411. Until the next decade, the Federal Government's only substantive jurisdiction in the field was the Johnson Act.

The total number of cases brought under this statute during the 1950's is not available. There is general agreement, however, that the Johnson Act was successful in eliminating interstate transportation of coin-operated gaming devices. The Kefauver Committee found that slot machines were readily available throughout the various States; the Commission, through its own research and by reviewing other reports on illegal gambling, has found little evidence that this is still true.[5] (15 U.S.C. 1175, which deals with regulation of gambling in Federal enclaves such as U.S. territories and military installations, is discussed more fully later in this chapter.)

18 U.S.C. 1084; 18 U.S.C. 1952–1953. The Justice Department became an active participant in antigambling enforcement during the 1960's. The Kennedy administration believed illegal gambling was an extremely important target for Federal legislation. Various legislative and executive studies showing that illegal gambling provided a substantial source of revenue for organized crime helped insure the passage of three statutes prohibiting gambling activity.[6] These statutes were enacted for the purpose of attacking large gambling syndicates that use interstate facilities.[7]

This legislation, when combined with investigative methods available only recently to Federal authorities, enabled the Federal Government to deal with large-scale interstate gambling operations—which the States and local governments, because of jurisdictional limitations, were unable to do.

18 U S C. 1084 prohibits the use of communications facilities to transmit wagering information or bets in interstate commerce.[8] The act was not intended to be applied to the placing of social wagers over the telephone; its offical purpose was to:

> . . . assist the various states . . . in the enforcement of their [gambling] laws . . . and to aid in the suppression of *organized gambling activities* by prohibiting the use of wire communication facilities . . . for the transmission of bets or wagers and gambling information in interstate and foreign commerce.[9] [Emphasis added.]

An exception to this prohibition permits interstate transmission of the proscribed information for purposes of news reporting or for wagering purposes between two States where such wagering is legal.[10]

18 U.S.C. 1953 extended existing prohibitions against interstate transportation of wagering paraphernalia.[11] (In the late 19th century, statutes banning the interstate transportation of lottery equipment had been enacted in response to the nefarious practices surrounding lotteries at that time.)[12]

The broadest antigambling provisions are contained in 18 U.S.C. 1952. This statute prohibits interstate travel or the use of interstate facilities to promote a gambling enterprise which is in violation of State or Federal law.[13] It contains no specific exemptions, but all legal gambling operations are excluded from its application.

In actual application, most of the indictments issued under 18 U.S.C. 1084, 1952, and 1953 involve the use of communications facilities on an interstate basis. The statutes have been used extensively against bookmaking operations doing an interstate layoff business. They were also used successfully to shut down the lavish, large-scale illegal casinos that were common in some cities during the 1940's and 1950's.[14]

Testimony received by the Commission from Federal law enforcement personnel indicates that these statutes have been successful in eliminating many operations controlled by organized crime and specializing in interstate layoff bookmaking. However, other testimony from these same officials indicates that efforts utilizing these statutes have not eliminated or even reduced the scope of illegal gambling: Bookmakers may have had to revamp their operations, but illegal bookmaking continues unabated, primarily on an intrastate basis.[15]

With respect to illegal casinos, the Commission has found no evidence that the situation revealed by the Kefauver Committee still exists. To a large extent, the fixed-site casinos that operated in open violation of the law in many cities have been eliminated.[16] Every city, however, is thought to harbor casinolike operations which differ from their defunct predecessors in that they operate covertly and utilize much less elaborate equipment. Where the earlier casinos operated such mechanized games as roulette, these new gambling dens offer card and dice games. Both types of operations have been characterized by operators' efforts to rig the outcome of the games.

Before the interstate gambling statutes were passed, when large interstate layoff bookmaking operations existed throughout the country, a single layoff operation would often service bookmaking establishments in a number of States. Similarly, some illegal casinos transacted their business across State lines. These operations were known to be under the control of organized crime.[17] The Commission agrees with Congress that organized crime represents a threat to the Nation and thus is properly the target of Federal legislation.

The effectiveness of Federal law enforcement agencies in combating interstate gambling syndicates has clearly exceeded that of State or local efforts aimed at the same operations. The statutes under discussion—primarily 18 U.S.C. 1952—were appropriately used in eliminating the regional layoff centers that were an important source of organized crime's control over bookmaking in the 1950's. The resources available to the Federal Government—such as the wiretap provisions of Title III of the Omnibus Crime Control and Safe Streets Act of 1968, immunity capability, and special grand juries [18]—have made Federal investigative efforts more effective than the States' in gambling cases, particularly when coupled with the organizational and jurisdictional capabilities needed for interstate surveillances.

These statutes have worked most successfully against the open types of gambling, which utilized highly visible equipment or stationary locations. Gambling ships and opulent casinos, once eliminated, were too costly to be duplicated. Similarly, the demise of the wirerooms can be attributed to the efforts of Federal law enforcement authorities through the utilization of the interstate statutes.[19] The major effect of this enforcement effort has been to substantially eliminate all but the two most prevalent forms of illegal gambling—numbers and bookmaking.[20]

The prohibitions contained in these statutes are also useful in preventing a State that permits legal gambling from interfering with the gambling policies of another State which does not. Thus, a legal bookmaker in Nevada is prohibited from laying off his bets to bookmakers in California, where this type of gambling is illegal. The Commission finds this to be consistent with the national policy on gambling, and believes that States that choose to prohibit gambling within their boundaries are well served by these Federal statutes.

Because it is a matter of unqualified national concern that a State permitting gambling not impose its standards upon a sister State with differing standards, the Commission recommends that legislation prohibiting interstate gambling or gambling-related activities be retained. However, the Commission feels that there is duplication in the existing statutes that could best be eliminated by drafting a new statute covering the necessary elements of interstate prohibition. This statute would not in any way erode Federal authority over interstate gambling offenses, but would eliminate the overlap that presently exists.[21]

Statutes Prohibiting Intrastate Gambling Activity and Related Bribery

18 U.S.C. 1955. Federal jurisdiction over gambling via the commerce clause was significantly expanded with the passage of the Organized Crime Control Act of 1970.[22] Federal involvement had previously been predicated on a specific showing that interstate commerce was being used by the illegal gambling business; under 18 U.S.C. 1955, a part of the act, Federal jurisdiction was predicated on a congressional finding that illegal gambling businesses of a certain size have a deleterious effect on interstate commerce.[23] (For purposes of Section 1955, an illegal gambling business is defined as one which involves five or more persons in the conduct, financing, directing, managing, or ownership of a gambling business doing a gross volume of $2,000 per day or which operates continuously over a 30-day period and which is in violation of the law of the State where it occurs.[24]

The chief justification for Federal jurisdiction was the additional congressional finding that syndicated gambling forms the largest single source of revenue for organized crime and helps to finance its other activities.[25] This statute, aggressively employed since its passage, has spearheaded recent Federal efforts against illegal gambling. As of June 30, 1975, 3,977 defendants had been indicted under the law. This compares with a total of approximately 2,000 defendants indicted under all other Federal gambling statutes during the same period.[26]

Utilization of the statute reached its peak in 1972, when 1,532 defendants were indicted under 18 U.S.C. 1955, compared with 366 defendants indicted for other Federal gambling offenses. While the number of Federal gambling defendants as a whole has declined substantially in the past 2 years (673 defendants in fiscal year 1975), 18 U.S.C. 1955 still accounted for more than 70 percent of the total.[27]

The Justice Department has testified that it feels that sentencing under 18 U.S.C. 1955 has frequently been too lenient, particularly in cases with large numbers of defendants.[28] Figures provided to the Commission by the Administrative Office of the Courts indicate that sentencing under this statute has been significantly lighter than under the other major antigambling statutes: Only 20 percent of those convicted under 18 U.S.C. 1955 between 1970 and 1974 received prison sentences, compared with at least 29 percent under each of the others. The average length of incarceration has also been somewhat lower.[29]

It should be noted, however, that sentencing under 18 U.S.C. 1955 appears to be harsher than that received by persons convicted under the wagering excise tax and wagering occupational stamp statutes before the *Marchetti-Grosso* decisions were handed down in 1968. Using a sample of cases provided by the Internal Revenue Service, the Commission found a lower percentage of prison sentences and a lower average length of incarceration under statutes 26 U.S.C. 4401 and 4411.[30] The Justice Department testified that it proposed a statute similar to 18 U.S.C. 1955 immediately following the *Marchetti-Grosso* decisions in order to maintain the Federal presence against major illegal gambling operations, regardless of whether such operations were involved in interstate transactions.[31]

It is often difficult to apply Section 1955 to bookmaking operations, which may involve only two or three people, because of the statutory requirement that five or more persons be involved in the operation of the business. Numbers operations more readily meet this requirement, but may not take in enough revenue for the statute to apply.

As stated previously, the Commission favors Federal legislation aimed at organized crime. Inasmuch as organized crime tends to benefit from large illegal intrastate gambling businesses, a Federal statute prohibiting such business is appropriate. However, some witnesses before the Commission have expressed concern that prosecutions brought under 18 U.S.C. 1955, although meeting its statutory requirements, do not reflect Congress' specific desire to confront organized crime through the statute.[32] A number of Section 1955 indictments clearly have been directed against gambling businesses that are not, in fact, organized-crime-controlled operations.[33] The Commission does not question that some gambling operations that meet the statutory requirements of Section 1955 are either directly controlled by organized crime or provide revenue to it, but it finds that there are illegal operations not so connected that are still subject to prosecution under the statute. It is therefore necessary that the Department of Justice be selective in choosing cases to be prosecuted under this statute.

This Commission believes that modification of certain elements of this statute would serve to insure selective application. For example, an increase in the minimum required volume of business from $2,000 to $10,000 a day is more likely to result in application of the statute to operations thought to be connected with organized crime. Another element subject to modification is the requirement of five or more persons, which, as discussed earlier, is unduly restrictive when dealing with bookmaking operations. Relaxation of this requirement to three or more persons would permit prosecution of high-volume bookmaking operations that are currently immune from prosecution. A further modification might well be the inclusion of a definition of the verb "conduct" to preclude conclusively from indictment a person whose role in the illegal gambling business is merely that of a player.

The Commission seriously considered advocating repeal of this statute on grounds that it constituted Federal involvement in an area of local jurisdiction. However, the situation that prompted the statute originally—that is, the inability of State and local authorities to contain the illegal gambling problem because of lack of jurisdiction, resources, and manpower—has not changed. Therefore, **the Commission has reluctantly concluded that the Federal Government should retain its enforcement jurisdiction over specified areas of intrastate gambling. However, the Commission recommends that the elements of the offense be modified pursuant to the above discussion.**[34]

18 U.S.C. 1511. 18 U.S.C. 1511, also a part of the Organized Crime Control Act, prohibits conspiracy to obstruct law enforcement in order to facilitate an illegal gambling business if one of the coconspirators is an elected or appointed official of a political subdivision.[35] In the Senate Judiciary Committee report on the passage of 18 U.S.C. 1511, great emphasis was placed on the theory that gambling enterprises of the type defined in section 1955 could not continue to function without the assistance of corrupt law enforcement officials. The pervasiveness of that corruption was deemed to be a matter of national concern.[36]

The Commission did not receive enough information to conduct an analysis of the utilization of this statute. Section 1511 has seldom been employed, but there is no reason at present to doubt its usefulness as a possible deterrent to illegal gambling. In this instance, the Commission believes that Federal legislation aimed at eliminating corruption fostered by illegal gambling activities is appropriate.

Historically, there have been instances of entire political systems being corrupted by organized crime, making State and local law enforcement agencies incapable of effective prosecution.[37] However, corruption of public officials is an important part of organized crime's method of operation in other areas of illegal activity too.

The Commission is aware that, in a number of investigations developed under this statute, no prosecutions were obtained because of the statutory requirement that two or more persons must be involved in the bribery attempt. In these situations, the public official who was offered the bribe feigned cooperation with the briber, but no violation of Federal law could exist because, in effect, only one person was involved in the bribe.

The Commission recommends that this statute be expanded to cover bribery relating to other illegal activities in the same manner as presently applies to the offense of gambling.

The Commission further recommends that appropriate language be added to the statute to allow for prosecutions in cases involving an attempt to bribe a public official to obstruct State or local law enforcement.[38]

TAX STATUTES

Although Federal taxation of gambling activities takes various forms (e.g., income tax on gambling winnings, individual and corporate income taxes on gambling business income, excise tax on gross wagers received by an individual in the business of accepting wagers, occupational stamp tax applicable to each person employed in the business of accepting wagers), all existing tax laws were passed primarily for the purpose of raising revenue and only secondarily to attack illegal gambling. Ironically, they have been ineffective as revenue-producing measures, and have contributed substantially to the success of illegal gambling operations. Congress must view this situation realistically from the standpoint of the national policy of assisting the States in their revenue-raising and law enforcement procedures.

Income Taxation (26 U.S.C. 61)

Section 61 of the Internal Revenue Code provides the basis for the taxation of all income from any source.[39] Judicial interpretations of this section have consistently ruled as taxable "any accretion to wealth . . . unless specifically exempt,"[40] thereby encompassing gambling winnings.

Section 165(d) of the Internal Revenue Code allows a specific deduction for gambling losses (from both legal and illegal sources) up to but not exceeding the extent of gambling winnings.[41]

Since most persons wager for entertainment and as a hobby, the added burden of income taxes on such chance or windfall gains tends to encourage those few bettors who do win to evade taxes on these gains. It is generally accepted that few bettors are net winners during a given year or, for that matter, during their gambling careers; most bettors sustain a net loss. Those who have a winning year, and properly declare their winnings, are not permitted to carry back or carry forward losses from previous or subsequent years as a deduction from other income. This encourages patronage of illegal games; the winner in an illegal game can ignore the doctrine of voluntary compliance because he knows that the illegal operator will not report the win to the IRS.

There appears to be almost no voluntary compliance with the reporting and payment requirements relating to the taxation of gambling winnings.[42] Under current regulations, offices accepting legal parimutuel wagers must file information returns for wins of more than $600 involving bets and winnings with odds higher than 299 to 1.[43] Apart from the income reported under this provision—a very small fraction of total parimutuel winnings—the Internal Revenue Service is unable to distinguish reporting of gambling winnings on personal income tax returns because these winnings are reported as "Other Income," and no distinction for gambling winnings is required under this category. The Internal Revenue Service reports having no resources specifically devoted to enforcing this provision of the Internal Revenue Code. In materials provided to the Commission, the IRS stated that the present tax laws affecting gambling winnings are operating in "a highly unsatisfactory manner."[44]

In 1960, the IRS did direct special monitoring procedures toward filing of information returns by racetracks and the reporting of gambling income by racetrack patrons. These procedures were terminated two years later, after the IRS concluded that compliance by both racetracks and bettors was satisfactory. However, despite the adequacy of these reporting procedures for extraordinary wins at unusual odds, average gambling winnings from legal sources apparently go unreported, as do winnings from illegal bookmakers.[45] And although the reporting requirements for very large winnings may be adequate, the IRS has found methods prevalent through which actual payment of the tax can be avoided. Since losses can be used to offset winnings, winners can circumvent the law by picking up losing tickets or falsifying the recipient's true identity through a so-called "ten-percenter."[46]

It is apparent that the law requiring payment of taxes on gambling winnings will always suffer from a lack of voluntary compliance. The requirement that a player be able to prove both his winnings and his losses is not one that can be realistically met by the gambler, particularly with respect to casino gambling. Even in the case of racetracks, where each transaction produces a record, a requirement that each bet be assigned a unique bettor's number (which would potentially prevent a winner from simply picking up enough losing slips to cover his winnings is not one that can be reasonably imposed. As previously discussed, the current reporting requirement arbitrarily selects a group for special treatment.

While the Federal income tax provisions relating to gambling do not serve to protect the interests of one State from the gambling policy decisions of another, they do nevertheless involve other substantial State, as well as national, interests: It is apparent that taxes on legal gambling winnings serve to deter large bettors from using legal betting facilities when faced with a choice between legal and illegal games. Testimony before this Commission has made it clear that existing Federal tax policies make any meaningful competition between legal and similar illegal games impossible.[47] A State that sees legal gambling as a technique for depriving illegal operators of their market may choose to exempt legal winnings from their State income tax; however, that approach would be defeated by retention of the existing Federal tax provisions. The current tax policy is tantamount to an inducement to the regular or heavy bettor to participate in illegal games.

The Commission believes that by giving a competitive edge to illegal facilities (which may in turn contribute their revenue to organized crime or other criminal cartels) the current tax policy on gambling winnings condemns to failure the efforts of a State to construct a legal alternative. It might therefore be concluded that the tax policy contributes to the success of gambling operations run by criminal elements. Certainly this was not the intent of Congress.

The Commission is aware that its recommendation on Federal taxation of gambling participants is the most central and, consequently, the most controversial one it has been called upon to make. For this reason, its decision has not been reached easily or without great care. It is the sense of the Commission that Congress should do all within its power, consistent with the national policy, to insure freedom of competition between burgeoning legal gaming industries and existing illegal gambling operations. If this is to be done, a different and consistent treatment of Federal tax policy is essential. Taxation of legal gambling winnings is the most critical issue affecting the right of each State to compete in the gambling arena, and it is clear to the members of this Commission that the present policy has a totally negative effect.

The attention of the States must be drawn to the deterrent effect of this tax policy, whether the policy is motivated by revenue raising or law enforcement considerations. It is, obviously, also appropriate for the States to review their present policies to determine whether the advantages that are derived from legal gambling operations may be offset by the advantage given to the illegal gambling community by Federal tax policies.

It is true that, in this country, gambling has traditionally been viewed as an activity that has a negative impact upon society and one that should therefore be taxed.[48] Yet in many States it is now a subject of State entrepreneurship, run by the State, controlled by the State, and providing revenue to the State. In such instances, exclusion of winnings from Federal income taxation should not be considered a promotion of gambling, but, rather, an acceptance and encouragement of State policy predicated upon a mandate of the people of that State, as well as an anticrime measure of assistance to law enforcement. It is quite possible that Congress might want to distinguish, for tax purposes, between gambling businesses conducted by a State and those legalized by a State and operated by private enterprise. While this would not go far enough in terms of allowing free competition between legal and illegal gambling industries, it is certainly a position far preferable to that presently in effect. The overriding concern of the Commission in this area is the prevention of Federal interference in the domain of State production of revenue. To the extent that the legal gambling industries provide revenue to the States, the existing Federal tax policy is in contravention of the national policy which is being recommended by this Commission. The recommended policy is to leave to the States the determinative jurisdiction over the legalization of gambling. To this end, **the Commission recommends that winnings derived from legal gambling entities be excluded from gross income, with the affirmative burden being placed upon the taxpayer to declare the income and prove the legality of the source.** (It is part of the Commission's recommendation that, in order to receive the benefit of the exclusion, an individual would be required to make on his or her income tax return an affirmative representation of having received winnings from a legal, identified source. The IRS would formulate the appropriate reporting requirements and design a suitable form which would set forth verifiable information establishing the validity of the representation.)

This recommendation is not to be construed as applying to the professional gambler: If a person's trade or business or his primary source of income is gambling, a statutory distinction must be provided to deny the exclusion. This distinction would also apply to operators of private gambling enterprises, whether they are individual or corporate entrepreneurs. This recommendation should not be viewed as in any way favorable to those who engage in illegal gambling. The affirmative burden of proof as to the legality of the source is meant as a safeguard against this possibility; the applicable provisions of fraud and falsification of returns would be available against those who provide improper documentation,[49] and these violations are more readily proved than is an understatement of income by an indirect method of proof.

The Commission recognizes the potential legal and practical difficulties that could arise from the immediate application of this tax policy to all legal games. Consequently, **the Commission recommends that implementation of this policy begin with its application to State operated gambling enterprises;** should this experience show justification for continuation of the policy, it could then be made applicable to other legal gambling industries.

An issue related to taxation of winnings is the withholding of income in anticipation of potential taxes. Such measures are contained in 26 U.S.C. 1441(a), requiring the withholding of 30 percent of all income earned by nonresident aliens[50] including gambling winnings.[51] That the IRS favored expansion of this concept to other categories of gambling winnings, applicable to U.S. citizens, is evidenced by its support of the withholding provisions of the Tax Reform Act of 1976.[52]

This new act—H.R. 10612—provides for withholding of 20 percent of all "proceeds of more than $1,000 from a wagering transaction, if the amount of such proceeds is at least 300 times the amount wagered." The bill raises the withholding limit to $5,000 or more won in a State lottery, removes the 300-to-1 odds requirement from "sweepstakes, wagering pools, and other lotteries," and excludes bingo, keno, and slot machines from its provisions. Casino games, by omission, are exempt as well.

Congressional interest in this withholding measure is understandable, since, in testimony before the Senate Finance Committee, officials of IRS estimated initially that such a measure would generate $500 million in revenue to the Government; the following day that figure was reduced to $160 million. There is no evidence to support either estimate.

The Commission believes that the expansion of the withholding concept as it applies to parimutuel wagering will not raise additional revenues to the Government. The requirement that information returns be filed applies only to parimutuel wagers for which the odds against winning exceeded 300 to 1. The new withholding provision makes no such distinction and appears to require withholding of 20 percent of all winning parimutuel wagers of $1,000 or more. The administrative burden to the operator of the legal industry to collect these funds is only one immediate concern, however; the likely impact of the requirement driving previous legal participants to illegal games is of greater concern, unless, of course, one is prepared to suggest that Congress specifically intended to increase the competitive advantage the illegal games presently maintain over their legal counterpart. Indeed, no factual basis has been provided to establish the validity of the estimate from IRS that $110 million will be realized by withholding 20 percent of all winning wagers exceeding $1,000 from parimutuel betting. Without such a factual justification, it would only temporarily be in the Government's possession, since losses in any given year will undoubtedly exceed winnings, entitling the return of these proceeds to a taxpayer.

The application of the withholding provision to State lottery prizes over $5,000 is even more questionable. A study conducted by IRS clearly established that all State lotteries properly filed information returns reporting winners of over $600 and that 85 percent of winners voluntarily reported and paid their taxes on such winnings. If these data from IRS are accepted, it is hard to envision any need for additional measures of collection, and it engenders skepticism about the claim of $500 million in additional revenues that are supposed to accrue from such a measure.

The Commission has reviewed this legislation and its likely impact on both legal gambling industries and individual participants in games of chance. It has examined the possibility that substantial administrative burdens might be imposed upon legal gambling businesses, and that illegal forms of gambling might become more attractive to the players, thereby reducing revenues to the States and increasing illegal gambling. It has questioned whether there is a real correlation between winnings on a given day and the overall tax liability of the participant, since gambling losses are deductible from winnings over the course of a year and most players lose on balance. It has sought to determine the amount of revenues that would ultimately be raised by such a measure, and whether such revenues would warrant the administrative expenses and social and economic consequences involved. Using these criteria, the Commission seriously questions whether the new withholding measure would serve to further any identifiable national interest; indeed, it would appear that such withholding interferes with the policies of numerous State governments.

Additionally, the exclusion of games such as keno, bingo, slot machines, and all casino gambling from any withholding requirement is, at best, arbitrary. At worst, it appears that Congress has once again formulated a clearly discriminatory practice against selected gambling industries based on what is apparently a very inexact estimate of the anticipated revenue. In an even more bizarre occurrence, Congress has inadvertently required withholding on any parimutuel winnings in excess of $1,000. The Commission can only hope that Congress will correct this mistake in its next session. Clearly, if the existing policy of taxing gambling winnings from a legal State entity is questionable, then the extension of that policy by withholding on other selected legal wagering entities is insupportable.

Consequently, the Commission concludes that the withholding measure will increase the advantage to illegal operators, generate minimal revenues to the Government, and unnecessarily increase the administrative burden to the legal gambling businesses. **The Commission recommends that Congress reexamine the probable impact of section 1207(d) of the Tax Reform Act of 1976. If, upon reexamination, Congress finds the proposed withholding tax to be destructive of existing legal gambling industries, the Commission recommends that these withholding provisions be repealed.**

A review of the Canadian approach to windfall gambling winnings was conducted at the Commission's request.[53] Canadian tax officials at the national and field levels were interviewed to obtain their views and experiences. Canadian law enforcement officials were also consulted to determine what effect, if any, Canadian tax policies on gambling winnings have on law enforcement efforts as they relate to illegal gambling.

The Canadian officials were unanimous in support of the exclusion of windfall or chance gains from taxation. They stated that this exclusion from income has not caused any adverse impact on tax revenues and, further, that it has not proven to be a problem in tax fraud cases in which the net worth method of proof was employed.

The Commission recognizes that the present use of form 1099 at racetracks to report large prizes is subject to circumvention by unscrupulous players however should the regulation requiring form 1099 at racetracks not be repealed the Commission believes that a simple modification making it a criminal violation to wrongfully receive funds reported on such forms would eradicate the problem of false reporting, and would be preferable to the imposition of withholding on winnings.

In the past, Congress has consistently encouraged State revenue-raising endeavors by providing them with favorable tax treatment. For example, a person who, in effect, lends money to a State through the purchase of a bond has the benefit of receiving tax-free interest.[54] Likewise, the imposition of certain State taxes—such as income, sales, and gasoline taxes—is partially offset by the allowance of deduction of these payments on Federal income tax returns.[55] **The Commission recommends that Congress—to be consistent—should provide equal tax treatment for legal gambling entities that are operated by a State.** This could be done by allowing bettors to deduct from their Federal income tax return that portion of the wager which reverts directly to the State for use in educational systems, aid to the elderly, or in the general fund for State services. For example, if 45 cents of a $1.00 lottery ticket purchase is allocated to the State, then that 45-cent portion could be taken as a deduction, using the total amount wagered ($1.00) only for purposes of the amount wagered in computation of net gambling income. This would provide a nondiscriminatory application of these incentive policies and would assist the States in becoming competitive with the illegal games. Congress might wish to begin by allowing this deduction for wagers placed with gambling industries operated by a State. Then, if experience dictates its feasibility, the policy could be extended to include legal gambling operations subject to State licensing or State regulatory procedures.

Wagering Excise Tax (26 U.S.C. 4401)[56] and Wagering Occupational Stamp Tax (26 U.S.C. 4411)[57]

These taxes were originally promoted in 1951 as revenue-producing measures representing an estimated annual gain of $400 million.[58] An additional goal advocated by proponents of the tax bills was the curbing of illegal wagering. At that time, the Kefauver Senate hearings were calling public attention to illegal gambling and stimulating interest in legislation aimed at combating racketeering through an attack on illegal gambling profits.[59]

The excise tax was originally set at 10 percent of gross wagers received by an individual in the business of accepting wagers; the occupational stamp was set at $50, applicable to each person employed in the business of accepting wagers.[60] On December 1, 1974, these were changed to 2 percent and $500, respectively, in an effort to enable legal bookmakers who pay the taxes to compete more effectively with their illegal counterparts.[61] This change also indicated a recognition that legal gambling industries, which have been on the increase in recent years, should not be subject to discriminatory tax treatment: The wagering taxes do not apply to parimutuel wagering, coin-operated devices, State lotteries that base winnings on horserace results, or casino games; they apply only to sports and horse bookmaking and numbers games.

The Internal Revenue Service opposed passage of these laws originally on the grounds that the taxes were unenforceable and nonproductive and, further, that the IRS' failure to enforce them would in turn breed contempt for other provisions of the tax laws.[62]

Because the IRS was not granted additional appropriations for manpower expenditures, its apprehensions about the legislation became a reality: The revenue derived averaged only $7 million per year, and voluntary compliance was at best minimal.

Nevertheless, the statutes provided the Internal Revenue Service with the authority by which to attack illegal gambling and organized crime. Throughout the 1950's and early 1960's, these statutes were the only means by which the Federal Government could obtain jurisdiction in gambling cases, and the presence of the IRS often provided intelligence information used in other cases.

Following the passage in 1961 of statutes prohibiting interstate gambling activity (18 U.S.C. 1084, 1952, and 1953), the wagering tax statutes continued to provide Federal law enforcement agencies with their sole source of jurisdiction over gambling operations of an intrastate or local nature. Then, on January 29, 1968, the U.S. Supreme Court handed down its decisions in *United States* v. *Marchetti* and *United States* v. *Grosso*.[63] These decisions held that the fifth amendment provided a complete defense for failure to comply with the wagering tax laws. Predictably, they led to an almost complete discontinuation of criminal investigations under the wagering tax statutes, except in cases involving legal wagering operations and persons who filed false statements. When a criminal case is made, records seized in the raid can be utilized as the basis for a civil assessment, which is then levied against any monies or valuable property seized. Although the total amount of the assessment is rarely, if ever, collected by the IRS, the impact of civil actions on the illegal wagering operations has some merit.

In 1974, legislative changes in the wagering tax schedules added restrictions on the potential use of information required by the tax provisions, as well as an immunity provision.[64] The legislation provided criminal sanctions for disclosure of documents to any person except in connection with the actual administration or enforcement of the tax laws. It was the intent of Congress thereby to override any existing ambiguities resulting from judicial interpretations, and to correct the problem inherent in pre-*Marchetti* legislation by eliminating the self-incriminatory aspects of the statute.[65]

Enforcement of these statutes was delegated by the Department of the Treasury to its Bureau of Alcohol, Tobacco and Firearms (ATF), rather than to the Internal Revenue Service. No additional appropriation has been provided to ATF for this new enforcement responsibility.[66]

It is clear that the wagering taxes have not diminished the volume of illegal gambling Congress has not given enforcement agencies the additional manpower needed to enforce these statutes, thus weakening their effect. Further, it would appear that State-sanctioned forms of gambling are the most adversely affected. Imposition of the 2-percent excise tax, for example, impairs the ability of legal bookmakers in Nevada to offer the same odds as illegal bookmakers. If a legal bookmaker passes the tax on to his customer, he will most likely drive the customer to an illegal operation; yet if he absorbs the tax himself, he may very well drive himself out of business. The Commission believes that these taxes will prove seriously detrimental to States that legalize additional forms of gambling.

The Commission, in keeping with its national policy, believes that the States should be permitted individually to levy whatever taxes they consider proper on legal gambling concerns. If the States demonstrate the ability to do this, it should preclude the imposition of Federal taxation. **The Commission therefore recommends repeal of both the wagering excise and occupational stamp taxes.**

An alternative recommendation is the retention of the taxes, with an exemption provided for gambling industries operated by a State. As stated in the preceding section on income taxation of gambling winnings, the Commission is opposed to Federal interference with State revenue-raising programs; exemption of State-operated gambling businesses from these wagering taxes is thus deemed critical to their continued success

If this recommendation—rather than total repeal—is adopted, then two further recommendations become necessary. The first is that **additional enforcement appropriations should be provided to ATF so that it will have the necessary manpower and other resources available to investigate alleged violations adequately.** The second concerns the occupational stamp tax. In the present law, the stamp is issued to each employee for a particular job; if he leaves one wagering job and goes to another with a different establishment, he must acquire another stamp. This places an unreasonable burden on the employee and, in many instances, on establishments that pay for the stamps for their employees. The recommendation, therefore, is that **if there is to be a continuation of the occupational stamp, it should be issued to the establishment, under strict reporting requirements as to their individual employees, thereby eliminating the necessity of transferability with each employment change.**

Occupational Tax on Coin-Operated Gaming Devices (26 U.S.C. 4411)[67]

This statute was passed in 1941 for the primary purpose of raising revenues. The statute imposes a $250 tax per machine on anyone who maintains a coin-operated gambling device for use on his premises. By definition, devices qualifying for this tax are those which deliver cash or merchandise at a retail value of more than 5 cents, with such delivery predicated upon the element of chance.

This tax has produced more than $307 million since 1955; prosecutions for failure to pay have resulted in 92 arrests and the seizure of more than $1 million in property and currency.[68] The revenues to the Federal Government realized from this tax, however, have dropped substantially since 1971, when Congress enacted legislation providing a credit against Federal taxation of up to 80 percent for similar taxes paid to the State, if the gambling devices are legal.[69]

This statute does nothing to protect one State from the gambling policies of another. Nor is any national interest served by this tax. There is Federal criminal enforcement authority over gambling devices via the Johnson Act (15 U.S.C. 1171-1177), thereby negating any need for Federal regulations through taxation, particularly when the bulk of the taxes collected are returned to the State. Repeal of this tax entirely would leave the question up to those States permitting that type of activity and satisfies the requirements of the national policy of gambling. **Therefore, the Commission recommends repeal of the occupational tax on coin-operated gaming devices.**

LOTTERY STATUTES

Statutes Restricting Use of Postal, Broadcasting, and Interstate Commerce Facilities by Lotteries (18 U.S.C. 1301-1304, 1307, and 1953 [(b)(4)]; 39 U.S.C. 3005)[70]

Federal statutes restricting the ability of lotteries to use postal, broadcasting, and interstate commerce facilities had their beginnings in the 19th century, when lotteries were prohibited by all the States. The intent of Congress clearly was to protect the public by denying lotteries—which were deemed corrupt, fraudulent, and degenerative —the facilities of interstate commerce. The mailing, broadcasting, and interstate transportation of lottery-related materials were prohibited by the Federal Government until 1975. At that time, Congress acted to exempt legal State lotteries from these restrictions after 12 State-run lotteries had been put into operation. It was the desire of Congress to eliminate any Federal interference with this form of revenue-raising by the States while at the same time protecting the interests of States that prohibited lotteries. Accordingly, State games were limited to intrastate mailings, and lottery broadcasts were restricted to licensees within the lottery State, or in adjacent States that also permitted lotteries.[71]

After the passage in 1890 of the final segment of the original antilottery legislation, the Postal Inspection Service enforced the statutes vigorously, and the Postmaster

General was able to report in 1892 that the use of the mails by lotteries had practically ceased. In more recent years, there has been a gradual decrease in the number of postal [illegible] lottery [illegible] less than 2 percent of the total conducted by the Postal Inspection Service.[72] Similarly, 18 U.S.C. 1304 has been used by the FCC to bring a small number of administrative actions against licensees who broadcast information about commercial lotteries.[73]

Since the enactment of 18 U.S.C. 1307 in 1974, State lotteries have been able to make use of radio and television for advertisements and broadcasts of drawings. The mails have been used by all the lottery States; while some have restricted their mailings to addresses within their borders, however, others have mailed information and prizes across State lines in response to unsolicited requests to participate. New Hampshire, for example, accepts requests to participate in its sweepstakes from every State in the Union, in defiance of the Justice Department, which has brought a civil action to enjoin this practice.[74]

The facilities of interstate commerce remain closed to lotteries which are not operated by State governments. Further, the Postal Service has construed 18 U.S.C. 1302 to apply to nonlottery activities such as the mailing of gambling-related brochures by legal Nevada casinos.[75]

Congress has chosen to permit State lotteries to utilize broadcasting and postal facilities to prevent Federal interference with a form of revenue raising duly authorized by 13 States. At the same time, the intent of Congress to protect the interests of States that wish to prohibit lotteries has been clearly expressed[76] and is in accordance with the philosophy of this Commission. However, by limiting lottery-related mailings to addresses within the borders of a State authorizing the game, the Federal Government prevents the distribution of lottery materials to States in which their use may be legal. Lottery tickets and advertisements should not be barred from the facilities of interstate commerce when they are legal both in the State of origin and in the State of destination. Broadcasts of information about legal lotteries should be permitted by licensees in any State where the purchase of the tickets that are the subject of the broadcast is authorized by law.

This can be accomplished without sacrificing the interests of the nonlottery States. Under such a plan, if a State had a statute prohibiting the sale of lottery tickets, the full weight of the Federal regulatory and law enforcement machinery could be utilized in violations involving interstate commerce. As a practical matter, this policy would effect no change in the present practices of the 37 nonlottery States, since their statutory and constitutional prohibitions against lotteries would be sufficient to invoke a Federal presence where interstate traffic is involved.

The Commission does not believe that the policy described above should be limited to lotteries operated by State governments only. If lotteries that are run for commercial, recreational, or charitable purposes are permitted within a State, there is no reason for the Federal Government to treat them differently from lotteries operated by a State. As long as the interests of abstaining States are protected, there is no justification for Federal restriction of such activities when they are condoned in the State where they occur. In addition, the Commission does not believe that lotteries that base their results on sporting events should be treated differently by the Federal Government from lotteries that rely on other means of determining the outcome. As long as the method of choosing winners is authorized by the State in which the game occurs, the Federal Government should treat all games alike. Indeed, the Commission believes that Federal policy should be uniformly applied to all types of gambling construed to be covered by 18 U.S.C. 1302, not merely to lotteries. For example, since the Postal Service has construed 18 U.S.C. 1302 to apply to casinos, casinos should be included within the scope of its exemptions in section 1307 as well.

In addition, the Commission believes that Federal law should not prohibit the mailing, interstate carriage, or broadcasting of advertisements concerning gambling activity that takes place within the confines of a State where it is legal. The operators of gambling businesses should be able to publish information about participation in their games, provided that it is legal to participate in those games while the player is physically present in the State; the Federal Government has no proper role in preventing the dissemination of such information. An exception to this policy would arise when a State had acted to regulate or prohibit such advertisements; then the Federal Government should not permit the facilities of interstate commerce to be used to frustrate such a policy.

18 U.S.C. 1953(b)(4), which permits the transportation into a State of materials used in the operation of a legal State lottery, can be read as permitting lottery tickets to be sent out of a lottery State, as long as they were first "used or designed for use" in that State's lottery.[77] The Commission wishes to prevent this unintended consequence, while insuring that individuals who carry lottery tickets across State lines solely for their private use are not subjected to Federal prosecution. The statute should be made applicable to private lotteries as well.

Statutes Governing Financial Institutions (12 U.S.C. 25[a], 339, 1829[a], and 1730[c])[78]

These statutes were enacted in 1967 to prohibit all federally controlled or federally insured financial institutions from participating in lottery-related activities, so as to preserve their reputation for safety and solvency.

Although banks and lending institutions may not engage in the sale, redemption, or advertising of lottery tickets, they are permitted to perform "lawful banking services" for State-operated lotteries. This has been interpreted by the supervising agencies to include the storage and distribution of lottery tickets and receipts.[79]

The Commission does not challenge the practices of the supervising agencies pursuant to the banking statutes. Nor does it question the decision of Congress that the institutions specified in these statutes should be free from active participation in gambling operations. The regulation of federally insured and controlled financial institutions is clearly within the power of Congress. The Commission has been presented with no evidence that this Federal policy has substantially interfered with the ability of the States to operate their lotteries. **The Commission recommends no change in these statutes.**

CIVIL REMEDIES

There are several statutes—18 U.S.C. 1961-1968—providing for civil remedies to be used against gambling offenders. These provisions, enacted as part of the Organized Crime Control Act of 1970, are directed against racketeer-influenced and corrupt organizations.[80] These sections are collectively referred to as the RICO statutes. 18 U.S.C. 1961 defines terms and 18 U.S.C. 1962 provides criminal sanctions for certain activities.[81]

The RICO statutes allow the Government to seek criminal penalties[82] and/or civil remedies[83] against persons who commit two separate acts of "racketeering activity." (Racketeering activity encompasses many disparate unlawful acts in addition to gambling.) To date, prosecutions have generally involved charges of two or more types of crime, but could conceivably cover two separate types of gambling offenses.[84] Among the offenses chargeable under State law and punishable by imprisonment for more than 1 year are transmission of gambling information,[85] interstate transportation of wagering paraphernalia,[86] and prohibition of illegal gambling businesses.[87]

Although utilized on a very limited basis so far by the Department of Justice, the civil remedy provision—18 U.S.C. 1964—has been tested and found to be a strong weapon against racketeer-influenced gambling activities.[88] 18 U.S.C. 1964 gives U.S. District Courts jurisdiction to restrain violations of 18 U.S.C. 1962. Without limiting any other remedy, the section allows the courts to order individuals to divest themselves of their interest in enterprises involved in violation of RICO statutes; to impose reasonable restrictions on the future activities and investments of such individuals (including engaging in the same activity); and to order the dissolution or reorganization of any enterprises involved in racketeering activity.[89] These far-reaching remedies, while not punitive, sometimes constitute more pragmatic protection to the public from gambling racketeers than would criminal punishment.

The civil remedy allowed in 18 U.S.C. 1964 does not allow a penalty of incarceration, forfeiture, or fine, but does permit the Government to obtain from the court an injunction which prohibits the gambler from engaging [illegible] any illegal gambling business.[90] It is not the present crime but the future violation of the court's order that serves as a deterrent: Following entry of such an injunction, the defendant is under the power of the court for a substantial period of time. On a subsequent showing by the Government that he has engaged in an illegal gambling enterprise, the defendant may be held in contempt and fined and/or incarcerated. No new charges need be filed. After giving the defendant notice by issuing an order to show cause why the defendant should not be held in contempt, the Government is obliged to show the court only that its order has been violated. This streamlined procedure allows rapid response to contemptuous violation of the court's order.

Apart from using the injunction as a strong deterrent device, the civil remedy provides other advantages. Unlike criminal cases, which are initiated by the filing of an indictment after presentation of evidence and the voting of a true bill by the grand jury, a civil case is instituted by filing a complaint[91] and issuing a summons.[92] The complaint alleges the jurisdiction of the court, the identity of the parties, and the facts upon which relief can be granted.[93] Unlike an indictment, a complaint can be easily amended at any time, even after the trial has concluded.[94] The word "racketeer," with its attendant connotations, can be used in the allegations.

The parties in a civil case, unlike those in a criminal case, can engage in extensive discovery by submitting written interrogatories, requiring documents to be produced, and taking depositions of the parties and other witnesses.[95] Such discovery is extremely beneficial in learning the nature of the illegal gambling business, the means by which it was operated, and the identity of those who participated in its operation. A defendant in a civil case, unlike criminal defendants, can be forced to testify and give information concerning conduct which may be illegal; however, a grant of immunity may have to be given to avoid infringement of the defendant's privilege against self-incrimination.[96] Failure of a defendant to provide discovery when ordered to do so by the court can result in the imposition of sanctions by the court, including a fine and/or imprisonment.[97] Unlike contempt for failure to testify before a grand jury following the grant of immunity (which permits the defendant to be incarcerated for the life of the grand jury, usually 18 months), the recalcitrant defendant in a civil case can be incarcerated for an unlimited period of time since he can purge himself from contempt by testifying when he so chooses.

Use of discovery carries significance beyond the fashioning of relief against the defendant himself. Because illegal gambling businesses must lay off money to others, employ runners, utilize oddsmakers, and perform other activities with persons outside of the core group in which they operate, use of discovery makes it possible to reveal other gambling groups. Once again, the liberality in pleadings in civil cases permits the filing of a new case or the amendment of the old case to include new parties and obtain relief against them.

Of utmost significance here is the lowering of the burden of proof that the Government must meet in order to obtain relief. In a criminal case, the Government must prove the defendant guilty beyond a reasonable doubt. In a civil case the Government need only prove by a preponderance of the evidence that the defendant is likely in the future to engage in conduct that violates the law—in this case the RICO statutes. While past illegal conduct by the defendant would most commonly be used to demonstrate the likelihood of future violations, such evidence is not absolutely necessary. It is possible to grant immunity from criminal prosecution to one witness and, by using discovery techniques, develop information against other defendants which is sufficient to obtain civil relief against all of them.

Finally, the injunctive relief restraining the defendants from participating in future gambling activities need not apply only to illegal conduct. The injunction can prohibit the performance of an otherwise lawful act.[98] For example, an individual who is restrained from accepting horse wagers can be prohibited from visiting a racetrack in a State where parimutuel gambling is legal. Also, a defendant may be forced to divest himself of property that he utilizes to carry out his illegal gambling business—for example, a legitimate business used as a cover for the illegal operation. It may also be possible to require defendants to submit reports disclosing their employment and source of income to make it more difficult for them secretly to reenter an illegal gambling operation. Because the relief sought is of an equitable nature, the court can fashion any relief that is appropriate to carry out its order, thereby providing great flexibility in controlling the defendant's participation in illegal gambling operations in the future.

The Commission finds the civil remedies provided in 18 U.S.C. 1964 to be cost-effective, thorough, and capable of great success in stemming illegal gambling in the United States. **The Commission recommends retention of these statutes, selective utilization of this remedy by the Federal Government against major gambling businesses connected with organized crime, and the adoption by the various State governments of civil relief statutes similar to 18 U.S.C. 1964.[99]**

FEDERAL ENCLAVES

Through constitutional grants of power, the Federal Government is given jurisdiction over certain tracts of land that include Indian reservations, military installations, and territories and possessions. To the extent that these areas differ from States in the application of Federal laws relating to gambling, they warrant separate treatment.[100]

Indian Reservations

The Indian tribes once were separate and sovereign nations within what is now the United States, but through conquests and subsequent treaties, tribal units were placed under Federal protection, within specified grants of land. These grants in land, or reservations, were deemed to be "distinct political communities" subjected, by the Constitution, to exclusive Federal jurisdiction. States were therefore preempted from enforcing their laws within the reservation's territorial boundaries.[101]

The Constitution delegates to the Federal Government the "power to regulate Commerce . . . with the Indian tribes."[102] The commerce clause, however, has not been found to be the sole basis for Federal police power over Indian reservations, as it is in the regulation of such offenses as gambling.[103] Additional police power in this instance stems from the Federal authority to regulate the territories, a power which is not dependent upon specific constitutional grant.[104] This Federal power supersedes any tribal ordinances that may be in conflict with it, thereby nullifying such ordinances.[105] Federal prohibitions do not, however, constitute the total regulatory body of laws by which Indian reservations are governed: The Assimilative Crimes Act permits the use of State statutes to cover offenses not covered by the Federal criminal code,[106] and tribal governments are permitted to regulate offenses committed among Indians on the reservation.

While the Federal Government has retained a guardianship role vis-a-vis the Indian population, it is under no obligation to continue this role. Congress is the sole arbiter of when and how the present Federal role is to be changed or terminated;[107] the Indians themselves are powerless to alter or suspend the existing relationship. In withdrawing Federal control, Congress can cause jurisdiction over the reservations to be delegated to the States, and, in fact, has taken steps in that direction by passage of Public Law 83-280.[108] This statute granted civil and criminal jurisdiction over reservations to the States; subsequent amendments included the requirement that tribal consent to a State's assumption of jurisdiction be given before such jurisdiction could apply. The statute contains specific language reiterating the principle that the respective State's criminal code would have the same weight on Indian territory as it has throughout the rest of the State. While this statute was passed with an eye toward eventual termination of Federal supervision in this area, it also made clear that such termination was to be effected gradually.[109]

Perhaps the most controversial issue arising from Public Law 83-280 concerns taxation. The statute itself contains explicit language prohibiting State taxation of Indian concerns.[110] Nevertheless, States have shown an understandable interest in taxing the Indians' economic activities in view of their increasing stature in the political and economic life of the State. State attempts to levy any such taxes have, to date, failed.[111]

Of the myriad of Federal statutes dealing with prohibition of gambling activities, only one specifically prohibits a single gambling activity on an Indian reservation; the legalization of all other games is dependent upon State law. This statute, part of the Johnson Act, states:

It will be unlawful to manufacture, recondition, repair, sell, transport, possess, or use any gambling device in the District of Columbia, in any possession of the United States, within Indian country as defined in section 1151 of Title 18 or within the special maritime and territorial jurisdiction of the United States as defined in section 7 of Title 18.[112]

The Commission fails to see any reason why, as to this particular activity, Indian reservations should not receive treatment consistent with State law. It does not consider the nature of the offense to be such as to warrant its continuing to be singled out as an area of Federal jurisdiction while other types of gambling activity on the reservation are subject to applicable provisions of State law. The continuation of this policy is neither in the national interest, nor is it protective of one State's rights from infringement by a sister State. Consequently, **the Commission recommends repeal of 15 U.S.C. 1175.** To do so would then place all gambling activities under the control of applicable State law. **The Commission further recommends that legal gambling activity of any kind conducted on an Indian reservation pursuant to State law should be subject to the same rate of taxation as that same activity conducted elsewhere in the State.** That activity would presumably be subject to the same licensing and regulatory requirements whether conducted on or off a reservation. Therefore, the licensing privilege should be accompanied by the correlative duty of equal taxation.

Military Installations

This subsection examines the application of gambling laws to military installations, which are broadly defined as any land area controlled or used in the pursuance of military activities. Because of the status of the specific land area, Congress has the authority to enact general municipal legislation applicable within that land area.[113] The method by which each tract of land within an installation is acquired, as well as the time of its acquisition, may affect the type of legislative authority available to the Federal Government.[114] Therefore, each tract must be treated individually; more often than not, military installations have been built up over a period of years in a series of increments acquired through different methods, thereby creating a complex jurisdictional pattern. However, there are three basic types of jurisdiction over military installations which may inure to the Federal Government:[115]

1. Exclusive Legislative Jurisdiction. Under this situation, the Federal Government has received all authority to legislate, with none left to the individual State.

2. Concurrent Legislative Jurisdiction. This limits Federal authority by virtue of the State's having reserved to itself the right to exercise, concurrently with the Federal Government, all or some of the same authority, insofar as such State authority is not inconsistent with Federal authority.

3. Proprietarial Interest. Under this situation, the Federal Government has acquired some degree of ownership in the land, but has not derived any legislative authority.

The fact that the Federal Government has legislative authority, either exclusive or concurrent, over a particular area, does not establish that it has actually passed applicable legislation, only that it has the authority to do so. As to the Federal statutes dealing with gambling, only 15 U.S.C. 1175 dealing with gambling devices makes specific reference to military installations under exclusive and concurrent Federal jurisdiction.[116] In general, Title 18, which codifies Federal crimes, applies to military installations; the Assimilative Crimes Act, discussed supra, is utilized to provide jurisdiction over offenses not covered by Title 18. This act operates only when there is no applicable Federal statute, and cannot be utilized to enlarge upon or narrow the scope of the Federal offense.[117] Any State laws which contravene the Federal provisions are not applicable under the Assimilative Crimes Act. Therefore, with respect to gambling offenses, those games not expressly proscribed by Federal statute are governed by State law through an application of the Assimilative Crimes Act.[118] In addition, the operations of any games on a military installation that are legal within the particular State are subject to the rules and regulations promulgated by the particular branch of the service having jurisdiction; these rules also differ among the branches.[119]

As discussed in the section of this chapter dealing with Indian reservations, the Commission is of the opinion that specialized treatment of a Federal enclave with respect to gambling devices is not in keeping with the stated national policy toward gambling; therefore, **the Commission recommends that 15 U.S.C. 1175 be repealed.** The applicable State statutes should be the governing force, and those rules of a particular branch of service which conflict with the State statutes should also be repealed.

Territories and Possessions

The Constitution establishes Congress' discretionary authority to impose Federal regulation on territories and other property belonging to the United States.[120] In this regard, Congress has made Federal gambling legislation applicable to Guam, the Virgin Islands, and American Samoa in the same manner that such legislation is applicable to the several States.[121] In two instances, however, Congress has delineated a special treatment in the area of gambling regulation: The provisions of the Johnson Act, discussed herein, while defining the Virgin Islands and Guam as "States" for purposes of the act, retain the specific proscription as to gambling devices as applying only to American Samoa,[122] and 18 U.S.C. 1301 specifies its prohibition against the transportation of lottery tickets to apply to the Canal Zone.[123] The Commission does not feel that these isolated instances of specialized treatment are in keeping with the stated national policy of permitting individual States to determine their own policy as to gambling legislation. The Commission does not feel that certain territories and possessions of the United States should be accorded unique treatment in the area of gambling legislation; there does not appear to be any rationale for restricting the governments of Samoa and the Canal Zone, while permitting the local governments of other U.S. possessions and territories to conduct the same activity. As stated earlier, **the Commission recommends repeal of 15 U.S.C. 1175. It further recommends removal of the Canal Zone from the express provisions of 18 U.S.C. 1301.**

The Commonwealth of Puerto Rico retains a singular status by virtue of a contract arrangement which voluntarily associates the Commonwealth with the United States.[124] This contract provides that the Federal laws of the United States are applicable to Puerto Rico with two exceptions. The first provides that Federal legislation would not apply in instances where local conditions would make such application undesirable.[125] This, in part, explains the exclusion of Puerto Rico from the application of the Johnson Act, since the Commonwealth has an interest in revenues derived from the operation of its casinos and the attendant attraction of tourism. The second exception provides an exemption for Puerto Rico from the internal revenue laws of the United States.[126] The result of this exemption is the freedom from Federal taxation of any profits realized from gambling activities in the Commonwealth of Puerto Rico. It must be emphasized that these provisions are applicable only through the contractual arrangement between the Commonwealth and the U.S. Government; possessions do not per se have the status of being recognized as individual entities for the purposes of taxation, and are therefore subject to the full panoply of Federal [illegible] as well [illegible] local taxes that may apply.[127] **The Commission recommends the continuation of these policies with respect to gambling taxation, with the further recommendation that any possession which acquires the status of a Commonwealth in the future should be accorded treatment equal to that of the Commonwealth of Puerto Rico.**

MISCELLANEOUS GAMBLING STATUTES

Historically, there have been other areas in which it was felt that antigambling proscriptions would be helpful, although these statutes have been utilized little, if at all, since their passage.

8 U.S.C. 1101, 1182[128]

These provisions of the immigration and naturalization laws indicate the intent to exclude from naturalization persons with a history of illegal gambling violations. As originally written, 8 U.S.C. 1182 was intended to exclude from entry into the United States aliens coming in to engage in "unlawful commercialized vice." Although the original bills contained no specific reference to gambling, a later attempt to clarify 8 U.S.C. 1182 led to addition of the specific language of 8 U.S.C. 1101. The definition of "good moral character" necessary for naturalization or relief from deportation contained particular language designed to exclude persons with a background of illegal gambling activity.

The Immigration and Naturalization Service (INS) does not maintain statistics on the number of applications for naturalization or for relief from deportation that have been denied because of provisions of 8 U.S.C. 1101 and 1182. The Commission is advised, however, that these statutes are in fact utilized.[129] In these instances, the INS relies upon investigative efforts of other agencies rather than conducting investigations of its own into illegal gambling activities.

Although the Commission has been unable to determine the manpower or cost factors attributable to administration of these statues, it is nevertheless of the opinion that they should be retained. Immigration continues to be a matter of national concern, and exclusion of undesirable persons is unquestionably in the best interests of the country. **So long as the exclusion covers a specified list of illegal activities, the Commission recommends retention of gambling activities within that list.**

7 U.S.C. 2044[130]

This statute, part of the Farm Labor Contractor Registration Act, permits suspension or refusal of a certificate of registration to a migrant farmworker crew leader convicted of a State or Federal law relating to gambling.

The intent of the entire Registration Act was to protect migrant workers from exploitation by irresponsible crew leaders. The provision relating to gambling convictions was predicated upon a finding that gambling was one of the several schemes through which unscrupulous crew leaders were able to take advantage of their workers.[131]

The Commission has been advised by the Department of Labor that applicants for certificates of registration are routinely fingerprinted and that the prints are forwarded to the FBI for criminal record checks. If the applicant has a criminal record, it is forwarded to the Department of Labor; if the record reflects a gambling conviction, the Department can then request further information about the conviction. If the gambling violation was committed in connection with or incident to the applicant's activities as a farm labor contractor, the violation falls within the purview of 7 U.S.C. 2044 as grounds for denial of a certificate.[132]

The Department of Labor reported no instances where followup requests for information were made; the Commission therefore assumes that in no instance did the Department of Labor receive a criminal record indicating a gambling conviction.[133]

The Commission believes the continuation of this protective measure to be in the national interest; apparently, Congress was of the same belief when, in 1974, it passed amendments to the Farm Labor Contractor Registration Act that broadened the prohibited activities to include prostitution or peonage.[134] Consequently, **the Commission recommends that this statute be retained in its present form.**

FCC Proscriptions

The Federal Communications Commission proscribes the broadcasting of certain horseracing information believed to provide assistance to illegal gambling operations. Licensees must normally wait until 30 minutes after a race has been run before broadcasting information concerning the outcome. This proscription struck at the practice of illegal horse bettors' using the winnings of previous bets as the basis for subsequent wagers. If a bettor could not obtain the result of his wager on the first race until after the second race was run, it was believed that he was less likely to place a bet on that second race. The policy was established pursuant to the Communications Act of 1934, which requires the FCC to serve the "public convenience, interest, and necessity," since in this case the "public interest" was found to dictate a suppression of gambling related to organized crime.[135] No administrative sanctions have ever been issued under this policy,[136] and it has never been extended to the broadcasting of information about other sporting events on which wagering, legal or illegal, takes place.

That this proscription has had an effect on illegal horserace wagering is evidenced by the complicated methods devised by illegal bookmakers to acquire race results and prices promptly, and by the elimination of illegal "wirerooms" around the country. However, in an era when wagering on sporting events—as opposed to wagering on horseracing—has become the major form of illegal gambling, the FCC policy may be overly selective. There is abundant evidence that sports betting is greatly affected by the broadcasting of the results or of the events themselves. Moreover, the same kind of sequential betting which characterizes horse betting also characterizes some sports betting; a bettor may place bets for evening games only after he has received the results of games played earlier in the day. **The Commission believes that the FCC proscription of horseracing broadcasts should be modified to treat consistently all information needed in illegal wagering operations.** The FCC should reevaluate whether its proscription should be broadened to include sporting events, or narrowed to cover only the immediate broadcast of the prices paid on a winning racehorse, thus permitting the broadcast of the race results themselves. In revising its policy, the FCC must consider the practical differences between horse betting and sports betting, and whether the broadcasting of information—e.g., point spreads—projecting the outcome of sporting events should not be curtailed.

Department of Defense Practices

As a general rule, United States military personnel are not permitted to gamble while on Government property or while on duty. There are exceptions, however; for example, the Air Force allows limited card games or nominal games of chance to take place in open mess facilities where these activities do not violate local law or custom. All three branches of the armed services permit controlled bingo games on Government installations. While the Army and the Air Force prohibit the operation of gaming devices, the Navy authorizes their use at overseas Navy and Marine Corps club facilities outside United States territory, where United States and foreign laws permit. The devices are carefully controlled, and detailed regulations specify the rate of payback, auditing procedures, and related matters. Revenues from the devices benefit the clubs and messes. Other forms of gambling are prohibited at Navy clubs, with the exception of dice cups at the bar.

The military codes of conduct also cover gambling-related activities by restricting behavior which is not in the best interest of the services; for example, Air Force officers are not permitted to gamble with enlisted men. The Army, Navy, and Air Force all require off-duty personnel to conform with the criminal gambling statutes of the jurisdictions within which they are located.[137] **The Commission believes that no changes in the policies are necessary.**

Sports Bribery

Prior to 1964, 18 U.S.C. 1952 was the sole tool afforded the Federal Government in its attempt to prosecute sports bribery violations involving interstate commerce.[138] This statute was of limited scope, however, because its application was contingent upon the violation having occurred in a State which had enacted laws proscribing sports bribery. Before 1964, 12 States had enacted no such statutes, even though they had considerable interest in the conduct of sporting events.[139] Furthermore, in those States which had enacted sports bribery statutes, State and local law enforcement had become increasingly more difficult because of the significant interstate nature of the criminal activity involved and the inadequacies of those statutes relied upon to control it. State law enforcement agencies were thus handicapped either by an absence of adequate laws in this area of concern or by jurisdictional limitations. The Federal Government was similarly handicapped by a lack of comprehensive statutory authority to assert its full police powers. This lack of Federal authority was remedied in part by the enactment of Public Laws 87-216, 87-218, and 87-228 during the first session of the 87th Congress, but such authority was still narrowly confined and restrained. It was in response to this circumscription of Federal involvement and the rise of organized criminal activities in this area that section 1952 was supplanted in 1964 by 18 U.S.C. 224.[140]

The purpose of this statute is to make it a Federal criminal offense to influence, by bribery, any sporting contest through the use of interstate commerce or any facility for transportation or communication. Unlike section 1952, this legislation is not limited by any consideration of whether the violation must occur in a State having laws proscribing such activity before the statute becomes effective. Furthermore, this statute is not intended to relieve or abrogate the responsibility of colleges or professional sporting associations to enforce their obligations or regulations respecting sports bribery, or to affect or interfere with the efforts of local law enforcement agencies against local violations.[141] This legislation merely affords Federal authorities the capacity to control interstate conspiracies beyond the capacity of the local authorities and to close the jurisdictional gaps previously encountered. As described by Senator Kenneth Keating in Senate Report No. 593 (October 22, 1963):

> This bill would provide the authority our law enforcement agencies need to prevent gamblers from corrupting college and professional sports. It would halt the contamination of sports by organized gambling syndicates by punishing any players or officials as well as gamblers who attempt to corrupt these games for personal gain. It would cover schemes to affect the point spread in a contest as well as to throw the game entirely and would apply to every case in which interstate facilities—such as the telephone or the mails—have been used to carry out the conspiracy.[142]

Beyond relieving jurisdictional encumbrances, the second major premise upon which this statute is based was the notion that sports betting had become a favorite outlet of organized crime and that the profits made from the bribery of athletic contestants are central to the nourishment of other illegal activities. As characterized by the Department of Justice in its review of this legislation, section 224 constitutes "a further step toward strengthening the supporting role of the Federal Government in the assault on organized crime." [143] The leaders of many associations responsible for regulating sporting events also espoused the assertion that a pervasive criminal conspiracy had invaded college campuses and sports arenas and that Federal involvement was necessary to preserve public confidence in the conduct of those events. Thus, as in the majority of the gambling statutes enacted during this period, the impetus of organized crime control was a significant catalyst in the enactment of section 224.

The most recent data from the FBI show that, since 1970, seven convictions have been realized under this statute.[144] Although specific details about the nature of these offenses have not been provided to the Commission, it has been found that four convictions involved superfecta harness-racing violations,[145] two involved bribery of football players,[146] and one involved off-track betting.[147] None of these convictions involved organized crime figures and none of the courts' findings addressed the issue of such involvement.

Nevertheless, the Commission believes the statute to be an effective deterrent to corruption of sports events, and recommends its retention on those grounds. If there is a move toward legalization of sports betting (see chapter 6), this statute would increase in importance; it would then be appropriate for the Federal Government to have jurisdiction over instances of bribery affecting a State's revenue-raising potential.

ENFORCEMENT POLICIES

Criminal Enforcement

Primary responsibility for enforcement of gambling laws was vested in State and local agencies until the early 1960's. Although the Federal Government has had limited criminal jurisdiction over certain types of illegal gambling since 1948, it had no vigorous enforcement tools at its disposal until 1961, when Congress passed three antiracketeering statutes designed primarily to attack illegal interstate gambling (18 U.S.C. 1054, 1952-1953). Congress felt these statutes were necessary because, given the interstate nature of large gambling operations, no effective attack upon organized illegal gambling was being waged at the local level. In 1970, Federal jurisdiction was extended to cover intrastate gambling operations of a specified size, because these businesses were thought to have a deleterious effect on interstate commerce.

Enforcement of Federal statutes prohibiting gambling is vested in the FBI and in the Department of Justice, which has delegated this responsibility to its Organized Crime and Racketeering Section (OCR). Officials of both agencies have testified extensively before this Commission.[148] The agencies agree that the most valuable tool available to law enforcement agencies in their fight against illegal gambling is the use of court-authorized electronic surveillance, or "wiretaps." Wiretaps have been widely used in gambling cases since 1968, when they were legalized under the provisions of Title III of the Omnibus Crime Control and Safe Streets Act. In fact, 72 percent of all Federal wiretaps were used in connection with gambling investigations.[149]

Although Federal officials have testified before this Commission that they believe existing statutes and enforcement procedures are adequate to combat illegal gambling, they concede that there has been no decrease in either the level of interest in, or the availability of, illegal numbers and sports bookmaking. This is not to say, however, that Federal criminal enforcement of gambling statutes has had no effect. On the contrary, the Commission notes that its effectiveness against certain types of illegal games has been demonstrable: Illegal casinos in such cities as Covington, Ky., and Hot Springs, Ark., no longer exist; illegal slot machines, once prevalent in many small communities, are now a rarity; illegal horserace wirerooms and many of the major interstate layoff operations have ceased operations; and organized criminal control of legalized casino gaming in Nevada appears to be at a minimum. This is attributable to a very positive impact of interstate gambling statutes as applied by Federal enforcement agencies.

However, the same cannot be said of Federal efforts directed toward intrastate gambling businesses such as numbers games or sports bookmakers operating within the confines of a State. In general, Federal officials say judicial and public apathy are the cause of this situation: Only 23 percent of those convicted on gambling charges receive prison sentences, thus severely minimizing the deterrent effect of prosecution. This would seem to be borne out by the correlative statistic showing that approximately 80 percent of those convicted of gambling offenses are recidivists.

The reaction of investigative and prosecutorial agencies toward this public and judicial apathy has apparently been a restructuring of gambling enforcement priorities: In 1971-1972, a program of intensified efforts toward gambling cases was undertaken by the FBI and Justice Department. This program required that top priority be given to gambling investigations and prosecutions over a specified period.

These agencies subsequently determined, however, that even this extensive application of manpower and resources made little dent in the level of illegal gambling. They have now shifted toward a policy of "quality vs. quantity"; that is, only "significant" gambling cases are being investigated and prosecuted at the Federal level.

The Commission finds that the efforts of the FBI and the Department of Justice with respect to illegal gambling enterprises operating interstate have been successful. Certain types of illegal gambling have, due to these efforts, been largely eliminated, and to this extent, the Commission finds that Federal enforcement efforts have been successful.

However, illegal gambling as a whole has not been checked; indeed, the dollar volume of illegal gambling is on the rise. The total resources available for an all-out war against illegal wagering are clearly insufficient. Sufficient results cannot occur, given the manpower available. Today's society demands that this manpower, and these law enforcement resources, be diverted from the fight against gambling to the fight against other types of crime, particularly those involving violence. This demand has apparently been met: gambling cases are not considered items of "top priority." Indeed, the Commission does not feel that they should be, and suggests that **the limited Federal manpower available to combat gambling violators might best be utilized against those conducting an interstate business.**

The Commission has repeatedly attempted to obtain records from these agencies that would permit a cost-benefit analysis of their efforts. In essence, their response has been that such records are not maintained, inasmuch as the actual success of law enforcement cannot be measured by comparing cost to statistical accomplishments. The Commission disagrees; **it recommends that records hereinafter be maintained that would permit measurement of the cost expended on gambling law enforcement against what such enforcement effort has accomplished.** Thus, Congress may then determine the effectiveness of the statutes in question and the ability of government agencies to carry out responsibilities given them.

Tax Enforcement

The efforts of the Internal Revenue Service have been singularly unsuccessful in curbing illegal gambling. Significant revenues have not been produced through the income tax, since illegal players generally underestimate or fail to report their gambling winnings.

However, there is one area in which Federal tax enforcement has met with success: Tax evasion cases against notorious organized crime figures have often resulted in convictions and incarceration of persons against whom no other violations had been proven.

The excise and occupational stamp taxes on certain gambling enterprises have also produced little revenue when compared to the amount of gambling the IRS believes takes place. The IRS opposed the imposition of these taxes on the grounds that they would be unenforceable, unproductive, and would breed contempt for other tax provisions. Since 1968, there has been virtually no enforcement action directed against failure to pay these taxes, and the Bureau of Alcohol, Tobacco and Firearms, which has been given the responsibility for criminal enforcement of these laws but no funds to support that mandate, has relegated gambling offenses to a low standing in its order of priorities.

In sum, the income tax statutes relating to gambling have proven ineffective as a revenue-producing measure, as a deterrent to illegal gambling, and as a weapon against organized crime. Indeed, the present Commissioner of Internal Revenue has appealed for the elimination of the Service's law enforcement responsibilities. The function of the IRS should be primarily to raise revenues, and in the case of gambling it has been notably unsuccessful.

Civil Enforcement

A relatively recent tool brought to bear upon illegal gambling violators is the civil injunctive procedure provided by 18 U.S.C. 1961 et seq. The Commission finds that the ineffectiveness of the criminal justice system demands alternatives. Although used sparingly to date, civil injunctions imposed upon illegal gamblers may meet with more success, both from the standpoint of judicial enforcement and potential deterrence. **The Commission recommends increased utilization of these techniques combined with modification of existing criminal statutes.**

FOOTNOTES

[1] [illegible] penalties

(a) [illegible] the United States and [illegible] a gambling ship which is not within the jurisdiction of any State. This section [illegible] in case of [illegible]

(b) [illegible] rules and regulations [illegible] to prevent violations of this section.

(c) [illegible] in violation of this section or of any [illegible] thereunder, the owner or charterer of such vessel [illegible] penalty of $200 for each passenger carried or [illegible] such provisions and the master or other person in charge of such vessel shall be subject to a civil penalty of $300. Such penalty [illegible] such vessel and proceedings to enforce such lien [illegible] summarily by way of libel in any court of the United States [illegible] thereof. The Secretary of the Treasury may mitigate or [illegible] the penalties provided by this section on such terms as he deems [illegible]

[2] Letter from Richard L. Thornburgh, Assistant Attorney General, [illegible] U.S. Department of Justice, to James E. Ritchie [illegible]

[3] H.R. Rep. No. 2769, 81st Congress, 2d Sess. 4 (1950); 1950 U.S. Code Cong. and Ad. News 4243 (1950).

[4] Section 1172. Transportation of gambling devices as unlawful; exceptions; authority of Federal Trade Commission

It shall be unlawful knowingly to transport any gambling device to any place in a State, the District of Columbia, or a possession of the United States from any place outside of such State, the District of Columbia, or possession: *Provided*, That this section shall not apply to transportation of any gambling device to a place in any State which has enacted a law providing for the exemption of such State from the provisions of this section, or to a place in any subdivision of a State if the State in which such subdivision is located has enacted a law providing for the exemption of such subdivision from the provisions of this section, nor shall this section apply to any gambling device used or designed for use at and transported to licensed gambling establishments where betting is legal under applicable State laws: *Provided*, *however*, That it shall not be unlawful to transport in interstate or foreign commerce any gambling device into any State in which the transported gambling device is specifically enumerated as lawful in a statute of that State. Nothing in this chapter shall be construed to interfere with or reduce the authority, or the existing interpretations of the authority, of the Federal Trade Commission under the Federal Trade Commission Act.

[5] Supra note 2.

[6] Report of the Special Committee to Investigate Organized Crime in Interstate Commerce (1951) and Report of the President's Commission on Law Enforcement and Administration of Justice (1967).

[7] 1961 U.S. Code Cong. & Ad. News 2631 (1961).

[8] Section 1084. Transmission of wagering information; penalties

(a) Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined not more than $10,000 or imprisoned not more than two years, or both.

(b) Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State where betting on that sporting event or contest is legal into a State in which such betting is legal.

(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia.

(d) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of Federal, State or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

[9] H.R. Rep. No. 967, 87th Cong., 1st Sess. 1 (1961); 1961 U.S. Code Cong. and Ad. News 2631 (1961).

[10] Supra note 8.

[11] Section 1953. Interstate transportation of wagering paraphernalia

(a) Whoever, except a common carrier in the usual course of its business, knowingly carries or sends in interstate or foreign commerce any record, [illegible] device used, or to be used, or adapted, devised, or designed for use in (a) bookmaking; or (b) wagering pools with respect to a sporting event; or (c) in a numbers, policy, bolita, or similar game shall be fined not more than $10,000 or imprisoned for not more than five years or both.

(b) [illegible] parimutuel tickets where legally acquired, or parimutuel materials used or designed for use at racetracks or other sporting events in connection with which betting is legal under applicable State law, or (2) the transportation of betting materials to be used in the placing of bets or wagers on a sporting event into a State in which such betting is legal under the statutes of that State, or (3) the carriage or transportation in interstate or foreign commerce of any newspaper or similar publication, or (4) equipment, tickets, or materials used or designed for use within a State in a lottery conducted by that State acting under authority of State law.

(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State, Commonwealth of Puerto Rico, territory, possession, or the District of Columbia.

[12] Cornell Law School Gambling Project, *The Development of the* [illegible] Ithaca, New York, 1975.

[13] Section 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises

(a) Whoever travels in interstate or foreign commerce or uses any facility in interstate or foreign commerce, including the mail, with intent to—

(1) distribute the proceeds of any unlawful activity; or

(2) commit any crime of violence to further any unlawful activity; or

(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity,

and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(b) As used in this section "unlawful activity" means (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section 102(6) of the Controlled Substances Act), or prostitution offenses in violation of the laws of the State in which they are committed or of the United States, or (2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States.

(c) Investigations of violations under this section involving liquor shall be conducted under the supervision of the Secretary of the Treasury.

[14] Testimony of Edward Joyce, Deputy Chief, Organized Crime and Racketeering Section, U.S. Department of Justice, before the Commission on the Review of the National Policy Toward Gambling, pp. 17-18, Washington, D.C., May 15, 1974.

[15] Ibid., p. 33.

[16] Supra note 14.

[17] Ibid., pp. 18-19. Also, for a more complete discussion of organized crime, see chapter 6, infra.

[18] Pub. L. No. 90-351, 82 Stat. 216, June 19, 1968.

[19] Supra note 14.

[20] See chapter 6 for a discussion of illegal gambling industries.

[21] See the appendix to this Report for the text of the Commission's proposed Federal gambling statute.

[22] Pub. L. No. 91-452, 84 Stat. 922, Oct. 15, 1970.

[23] Supra at 936.

[24] Section 1955. Prohibition of illegal gambling businesses

(a) Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined not more than $20,000 or imprisoned not more than five years, or both.

(b) As used in this section—

(1) "illegal gambling business" means a gambling business which—

(i) is a violation of the law of a State or political subdivision in which it is conducted;

(ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

(iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day.

(2) "gambling" includes but is not limited to pool-selling, bookmaking, maintaining slot machines, roulette wheels or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

(3) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(c) If five or more persons conduct, finance, manage, supervise, direct, or own all or part of a gambling business and such business operates for two or more successive days, then, for the purpose of obtaining warrants for arrests, interceptions, and other searches and seizures, probable cause that the business receives gross revenue in excess of $2,000 in any single day shall be deemed to have been established.

(d) Any property including money used in violation of the provisions of this section may be seized and forfeited to the United States All provisions of law relating to the seizure summary and judicial forfeiture procedures and condemnation of vessels vehicles merchandise and baggage for violation of the customs laws the disposition of such vessels vehicles, merchandise and baggage or the proceeds from such sale the remission or mitigation of such forfeitures and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section insofar as applicable and not inconsistent with such provisions Such duties as are imposed upon the collector of customs or any other person in respect to the seizure and forfeiture of vessels vehicles, merchandise and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents or other persons as may be designated for that purpose by the Attorney General

(e) This section shall not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1954 as amended, if no part of the gross receipts derived from such activity inures to the benefit of any private shareholder, member, or employee of such organization except as compensation for actual expenses incurred by him in the conduct of such activity

[25] 1970 U S Code Cong & Ad News 4007 (1970).

[26] Letter from Assistant Attorney General Richard L Thornburgh, Criminal Division, U S Department of Justice, to James E Ritchie, January 16, 1976

[27] Ibid

[28] Testimony of Jay C. Waldman, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, before the Commission on the Review of the National Policy Toward Gambling, May 11, 1976, Washington, D.C.

[29] See "Sentencing the Federal Gambling Offender," by Bruce Butcher, in the appendix to this Report.

[30] See "Federal Gambling Taxation," by Carol Duncan, in the appendix to this Report.

[31] Supra note 14, p. 19.

[32] See Testimony of the Federal Defender Office, Detroit, Michigan, to the Commission on the Review of the National Policy Toward Gambling, June 24, 1975, Detroit, Michigan.

[33] Ibid.

[34] Supra note 21.

[35] Section 1511 Obstruction of State or local law enforcement

(a) It shall be unlawful for two or more persons to conspire to obstruct the enforcement of the criminal laws of a State or political subdivision thereof, with the intent to facilitate an illegal gambling business if—

(1) one or more of such persons does any act to effect the object of such a conspiracy,

(2) one or more of such persons is an official or employee, elected, appointed, or otherwise of such State or political subdivision, and

(3) one or more of such persons conducts finances manages, supervises, directs, or owns all or part of an illegal gambling business

(b) As used in this section—

(1) "illegal gambling business" means a gambling business which—

(i) is a violation of the law of a State or political subdivision in which it is conducted,

(ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

(iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day

(2) "gambling" includes but is not limited to pool-selling, bookmaking, maintaining slot machines, roulette wheels, or dice tables, and conducting lotteries policy bolita or numbers games, or selling chances therein

(3) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States

(c) This section shall not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1954, as amended, if no part of the gross receipts derived from such activity inures to the benefit of any private shareholder, member, or employee of such organization, except as compensation for actual expenses incurred by him in the conduct of such activity

(d) Whoever violates this section shall be punished by a fine of not more than $20,000 or imprisonment for not more than five years, or both.

[36] Supra note 22.

[37] See Jonathan Rubinstein "Gambling Enforcement and Police Corruption"; Carol H. Duncan, "Gambling-Related Corruption," in the appendix to this Report; also see, *Annual Reports*, Pennsylvania Crime Commission, St. Davids, Pennsylvania; John Gardiner, *The Politics of Corruption Organized Crime in an American City* (New York: Russell Sage Foundation, 1970).

[38] Supra note 21.

[39] 1954 U S Code Cong. and Ad News 4155, 4802, 5280 (1954).

[40] *United States* v. *Johnson*, 319 U.S. 503 (1943)

[41] Section 165. Losses

". (d) Wagering losses Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions

[42] Exhibit No 27 dated May 3 1974 submitted by Internal Revenue Service to Commission, p 10

[43] Id p 2

[44] Id , p 1

[45] Id p 3

[46] Id p 5

[47] Testimony of State lottery officials Apr 3 1974 testimony of Off-Track Betting Officials May 6-7 1975

[48] For a contrary position, see appendix materials regarding the experiences of Great Britain in this area

[49] Section 7206 Fraud and false statements

Any person who—

(1) Declaration under penalties of perjury —Willfully makes and subscribes any return statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, or

(2) Aid or assistance —Willfully aids or assists in or procures counsels or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws of a return affidavit claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document, or

(3) Fraudulent bonds permits and entries —Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal revenue laws, or by any regulation made in pursuance thereof or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or

(4) Removal or concealment with intent to defraud.—Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title; or

(5) Compromises and closing agreements.—In connection with any compromise under section 7122, or offer of such compromise, or in connection with any closing agreement under section 7121, or offer to enter into any such agreement, willfully—

(a) Concealment of property.—Conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or

(b) Withholding, falsifying, and destroying records.—Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax,

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than three years, or both, together with the costs of prosecution

[50] Section 1441 Withholding of tax on nonresident aliens

(a) *General rule*—Except as otherwise provided in subsection (c), all persons, in whatever capacity acting including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States) having the control, receipt, custody, disposal, or payment of any of the items of income specified in subsection (b) (to the extent that any of such items constitutes gross income from sources within the United States) of any nonresident alien individual or of any foreign partnership shall . . . deduct and withhold from such items a tax equal to 30 percent thereof, except that in the case of any item of income specified in the second sentence of subsection (b), the tax shall be equal to 14 percent of such item

[51] See Rev Ruling 58-479, 70-543 and 1970-2 C B 173

[52] Letter from Donald Alexander, Commissioner of Internal Revenue Service, to James E. Ritchie, Executive Director, dated September 8, 1976.

[53] See the appendix to this Report for "Feasibility Study, Tax Exemption for Gambling Winnings," by John Olszewski.

[54] 26 U S C 103 reads in pertinent part

Section 103. Interest on certain governmental obligations

(a) *General Rule* —Gross income does not include interest on—

(1) the obligations of a State, a territory, or a possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia

[55] 26 U S C 164 reads in pertinent part

Section 164 Taxes

(a) *General Rule* —Except as otherwise provided in this section, the following taxes shall be allowed as a deduction for the taxable year within which paid or accrued

. . .

(3) State and local and foreign income, war profits, and excess profits taxes

(4) State and local general sales taxes

(5) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels

[56] Section 4401 Imposition of tax

(a) *Wagers* —There shall be imposed on wagers, as defined in section 4421 an excise tax equal to 2 percent of the amount thereof

(c) Persons liable for tax —Each person who is engaged in the business of accepting wagers shall be liable for and shall pay the tax under this subchapter on all wagers placed with him Each person who conducts any wagering pool or lottery shall be liable for and shall pay the tax under this subchapter on all wagers placed in such pool or lottery.

[57] Section 4411. Imposition of tax
There shall be imposed a special tax of $500 per year to be paid by each person who is liable for tax under section 4401 or who is engaged in receiving wagers for or on behalf of any person so liable.

[58] 1954 U.S. Code Cong. and Ad. News 4468, 127, 1954.

[59] The Kefauver Committee Report, Organized Crime, Didier ed. 1951.

[60] Supra note 58.

[61] P.L. 93-499, Oct. 29, 1974, 88 Stat. 1550.

[62] Supra note 30.

[63] Marchetti v. United States, 390 U.S. 39 (1968); Grosso v. United States, 390 U.S. 62 (1968).

[64] 26 U.S.C. 4424. Sec. 4424. Disclosure of wagering tax information
(a) General Rule.—Except as otherwise provided in this section, neither the Secretary or his delegate nor any other officer or employee of the Treasury Department may divulge or make known in any manner whatsoever to any person—
(1) any original, copy, or abstract of any return, payment, or registration made pursuant to this chapter,
(2) any record required for making any such return, payment, or registration, which the Secretary or his delegate is permitted by the taxpayer to examine or which is produced pursuant to section 7602, or
(3) any information come at by the exploitation of any such return, payment, registration, or record.
(b) Permissible Disclosure.—A disclosure otherwise prohibited by section (a) may be made in connection with the administration or civil or criminal enforcement of any tax imposed by this title. However, any document or information so disclosed may not be—
(1) divulged or made known in any manner whatsoever by any officer or employee of the United States to any person except in connection with the administration or civil or criminal enforcement of this title, nor
(2) used, directly or indirectly, in any criminal prosecution for any offense occurring before the date of enactment of this section.
(c) Use of *Documents Possessed by Taxpayer*.—Except in connection with the administration or civil or criminal enforcement of any tax imposed by this title—
(1) any stamp denoting payment of the special tax under this chapter,
(2) any original, copy, or abstract possessed by a taxpayer of any return, payment, or registration made by such taxpayer pursuant to this chapter, and
(3) any information come at by the exploitation of any such document,
shall not be used against such taxpayer in any criminal proceeding.
(d) *Inspection by Committee of Congress*.—Section 6103 (d) shall reply with respect to any return, payment, or registration made pursuant to this chapter.

[65] Conference Report No. 93-1401, p. 5.

[66] Statement of John Corbin, Assistant Director of the Office of Criminal Enforcement of the Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, to the Commission on the Review of the National Policy Toward Gambling, May 10, 1976, Washington, D.C., p. 60.

[67] Supra note 57.

[68] Supra note 30.

[69] [illegible]

[70] Section 1301. Importing or transporting lottery tickets
Whoever brings into the United States for the purpose of disposing of the the same, or knowingly deposits with any express company or other common carrier for carriage, or carries in interstate or foreign commerce any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any advertisement of, or list of the prizes drawn or awarded by means of, any such lottery, gift enterprise, or similar scheme; or knowingly takes or receives any such paper, certificate, instrument, advertisement, or list so brought, deposited, or transported, shall be fined not more than $1,000 or imprisoned not more than two years, or both.

Section 1302. Mailing lottery tickets or related matter
Whoever knowingly deposits in the mail, or sends or delivers by mail:
Any letter, package, postal card, or circular concerning any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance;
Any lottery ticket or part thereof, or paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance;
Any check, draft, bill, money, postal note, or money order, for the purchase of any ticket or part thereof, or of any share or chance in any such lottery, gift enterprise, or scheme;
Any newspaper, circular, pamphlet, or publication of any kind containing any advertisement of any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or containing any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes;
Any article described in section 1953 of this title—
Shall be fined not more than $1,000 or imprisoned not more than two years, or both; and for any subsequent offense shall be imprisoned not more than five years.

Section 1303. Postmaster or employee as lottery agent
Whoever, being a postmaster or other person employed in the Postal Service, acts as agent for any lottery office, or under color of purchase or otherwise, vends lottery tickets, or knowingly sends by mail or delivers any letter, package, postal card, circular, or pamphlet advertising any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance, or any ticket, certificate, or instrument representing any chance, share, or interest in or dependent upon the event of any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes awarded by means of any such scheme, shall be fined not more than $100 or imprisoned not more than one year, or both.

Section 1304. Broadcasting lottery information
Whoever broadcasts by means of any radio station for which a license is required by any law of the United States, or whoever, operating any such station, knowingly permits the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes, shall be fined not more than $1,000 or imprisoned not more than one year, or both.
Each day's broadcasting shall constitute a separate offense.

Section 1307. State-conducted lotteries
(a) The provisions of sections 1301, 1302, 1303, and 1304 shall not apply to an advertisement, list of prizes, or information concerning a lottery conducted by a State acting under the authority of State law—
(1) contained in a newspaper published in that State, or
(2) broadcast by a radio or television station licensed to a location in that State or an adjacent State which conducts such a lottery.
(b) The provisions of sections 1301, 1302, and 1303 shall not apply to the transportation or mailing to addresses within a State of tickets and other material concerning a lottery conducted by that State acting under authority of State law.
(c) For the purposes of this section "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.
(d) For the purposes of this section "lottery" means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. "Lottery" does not include the placing or accepting of bets or wagers on sporting events or contests.

Section 3005. False representations; lotteries
(a) Upon evidence satisfactory to the Postal Service that any person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, or is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, the Postal Service may issue an order which—
(1) directs the postmaster of the post office at which mail arrives addressed to such a person or to his representative, to return such mail to the sender appropriately marked as in violation of this section, if the person or his representative is first notified and given reasonable opportunity to be present at the receiving post office to survey the mail before the postmaster returns the mail to the sender; and
(2) forbids the payment by a postmaster to the person or his representative of any money order or postal note drawn to the order of either and provides for the return to the remitter of the sum named in the money order or postal note.
(b) Publication of an advertisement by any person engaged in activities covered by subsection (a) of this section, that remittances may be made by mail to a person named in the advertisement, is prima facie evidence that the latter is the agent or representative of the advertiser for the receipt of remittances on behalf of the advertiser. The Postal Service may ascertain the existence of the agency in any other legal way satisfactory to it.
(c) As used in this section and section 3006 of this title, the term "representative" includes an agent or representative acting as an individual or as a firm, bank, corporation, or association of any kind.
(d) Nothing in this section shall prohibit the mailing of (1) a newspaper of general circulation published in a State containing advertisements, lists of prizes, or information concerning a lottery conducted by that State acting under authority of State law, or (2) tickets or other materials concerning such a lottery within that State to addresses within that State. For the purposes of this subsection, "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.
(For text of 18 U.S.C. 1953 (b)(4) see note 11, supra.)

[71] 18 U.S.C. 1307.

[72] Testimony of John D. Tarpey, Assistant Chief Inspector, U.S. Postal Service, before the Commission on the Review of the National Policy Toward Gambling, Washington, D.C., June 26, 1974.

[73] Letter from Ashton R. Hardy, General Counsel, FCC, to James E. Ritchie, Executive Director, undated.

[74] *United States v. New Hampshire Sweepstakes Commission*, CIV 76-60 SD, Portland, Maine.

[75] Letter from George C. Davis, Assistant General Counsel, U.S. Postal Service, to Postmaster, Miami, Florida, February 9, 1972.

[76] H.R. Rep. No. 93-1517; Senate Report No. 93-1404.

[77] Memorandum from G. Robert Blakey, Professor of Law, Cornell University, to James E. Ritchie, Executive Director, August 15, 1975.

[78] Section 25a. Participation by national banks in lotteries and related activities—Prohibited activities
(a) A national bank may not—
(1) deal in lottery tickets;
(2) deal in bets used as a means or substitute for participation in a lottery;
(3) announce, advertise, or publicize the existence of any lottery;

(4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery

Use of banking premises prohibited

(b) A national bank may not permit—

(1) the use of any part of any of its banking offices by any person for any purpose forbidden to the bank under subsection (a) of this section, or

(2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a) of this section

Definitions

(c) As used in this section—

(1) The term "deal in" includes making, taking, buying, selling, redeeming, or collecting

(2) The term "lottery" includes any arrangement whereby three or more persons (the "participants") advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the "winners") will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

(A) a random selection,

(B) a game, race, or contest, or

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner

(3) The term "lottery ticket" includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery

Lawful banking services connected with operation of lotteries

(d) Nothing contained in this section prohibits a national bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery

Regulations, enforcement

(e) The Comptroller of the Currency shall issue such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof

Section 339 Participation by State member banks in lotteries and related activities—Prohibited activities

(a) A State member bank may not—

(1) deal in lottery tickets;

(2) deal in bets used as a means or substitute for participation in a lottery,

(3) announce, advertise, or publicize the existence of any lottery,

(4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery

Use of banking premises prohibited

(b) A State member bank may not permit—

(1) the use of any part of any of its banking offices by any person for any purpose forbidden to the bank under subsection (a) of this section, or

(2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a) of this section

Definitions

(c) As used in this section—

(1) The term "deal in" includes making, taking, buying, selling, redeeming, or collecting

(2) The term "lottery" includes any arrangement whereby three or more persons (the "participants") advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the "winners") will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes

(A) a random selection,

(B) a game, race, or contest; or

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner

(3) The term "lottery ticket" includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery

Lawful banking services connected with operation of lottery

(d) Nothing contained in this section prohibits a State member bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of a lottery

Regulations, enforcement

(e) The Board of Governors of the Federal Reserve System shall issue such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof

Section 1829a Participation by State nonmember insured banks in lotteries and related activities—Prohibited activities

(a) A State nonmember insured bank may not—

(1) deal in lottery tickets

(2) deal in bets used as a means or substitute for participation in a lottery;

(3) announce, advertise, or publicize the existence of any lottery,

(4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery

Use of banking premises prohibited

(b) A State nonmember insured bank may not permit—

(1) The use of any part of any of its banking offices by any person for any purpose forbidden to the bank under subsection (a) of this section, or

(2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a) of this section

Definitions

(c) As used in this section—

(1) The term "deal in" includes making, taking, buying, selling, redeeming, or collecting

(2) The term "lottery" includes any arrangement whereby three or more persons (the "participants") advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the "winners") will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

(A) a random selection,

(B) a game, race, or contest, or

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner

(3) The term "lottery ticket" includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery

Lawful banking services connected with operation of lottery

(d) Nothing contained in this section prohibits a State non-member insured bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery.

Regulations, enforcement

(e) The Board of Directors shall prescribe such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof

Section 1730c. Participation by insured institutions in lotteries and related activities—Prohibited activities

(a) An insured institution may not—

(1) deal in lottery tickets,

(2) deal in bets used as a means or substitute for participation in a lottery,

(3) announce, advertise, or publicize the existence of any lottery,

(4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

Use of banking premises prohibited

(b) An insured institution may not permit—

(1) the use of any part of any of its own offices by any person for any purpose forbidden to the institution under subsection (a) of this section, or

(2) direct access by the public from any of its own offices to any premises used by any person for any purpose forbidden to the institution under subsection (a) of this section

Definitions

(c) As used in this section—

(1) The term "deal in" includes making, taking, buying, selling, redeeming, or collecting

(2) The term "lottery" includes any arrangement whereby three or more persons (the "participants") advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the "winners") will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

(A) a random selection

(B) a game, race, or contest, or

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner

(3) The term "lottery ticket" includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

Lawful services connected with operation of lottery

(d) Nothing contained in this section prohibits an insured institution from accepting funds from, or performing any lawful services for, a State operating a lottery, or an officer or employee of that State who is charged with the administration of the lottery

Regulations, enforcement

(e) The Federal Home Loan Bank Board shall prescribe such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof

[79] Letters, Chester B. Feldberg, Secretary to the Board of Governors of the Federal Reserve System, to James E. Ritchie, Executive Director, July 29, 1974, Roger A. Hood, Assistant General Counsel, FDIC, to Charles H. Morin, Commission Chairman, July 15, 1974, William T. Nachbaur, Assistant General Counsel, FHLBB, to James E. Ritchie, Jan. 7, 1975

[80] P.L. No. 91-452, Oct. 15, 1970, 84 Stat. 922, provides in part:

"It is the purpose of this Act . . . to seek the eradication of organized crime in the United States by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime."

[81] Section 1961 Definitions

As used in this chapter—

(1) "Racketeering activity" means (A) any act or threat involving murder, kidnaping, gambling, arson, robbery, bribery, extortion, or dealing in narcotic or other dangerous drugs, which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which

indictable under any of the following provisions of title 18, United States Code: section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), sections 2314 and 2315 (relating to interstate transportation of stolen property), sections 2421-24 (relating to white slave traffic), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic or other dangerous drugs, punishable under any law of the United States;

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

(3) "person" includes any individual or entity capable of holding a legal or beneficial interest in property;

(4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(5) "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

(6) "unlawful debt" means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;

(7) "racketeering investigator" means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter;

(8) "racketeering investigation" means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter;

(9) "documentary material" includes any book, paper, document, record, recording, or other material; and

(10) "Attorney General" includes the Attorney General of the United States, the Deputy Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter. Any department or agency so designated may use in investigations authorized by this chapter either the investigative provisions of this chapter or the investigative power of such department or agency otherwise conferred by law.

Section 1962. Prohibited activities

(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsections (a), (b), or (c) of this section.

[82] Section 1963. Criminal penalties

(a) Whoever violates any provision of section 1962 of this chapter shall be fined not more than $25,000 or imprisoned not more than twenty years, or both, and shall forfeit to the United States (1) any interest he has acquired or maintained in violation of section 1962, and (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which he has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962.

(b) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

(c) Upon conviction of a person under this section, the court shall authorize the Attorney General to seize all property or other interest declared forfeited under this section upon such terms and conditions as the court shall deem proper. If a property right or other interest is not exercisable or transferable for value by the United States, it shall expire, and shall not revert to the convicted person. All provisions of law relating to the disposition of property, or the proceeds from the sale thereof, or the remission or mitigation of forfeiture for violation of the customs laws, and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not in the collector of customs or any other person with respect to the disposition of property under the customs laws shall be performed under this chapter by the Attorney General. The United States shall dispose of all such property as soon as commercially feasible, making due provision for the rights of innocent persons.

[83] Section 1964. Civil remedies

(a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

(b) The Attorney General may institute proceedings under this section. In any action brought by the United States under this section, the court shall proceed as soon as practicable to the hearing and determination thereof. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

(c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.

(d) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

[84] See *United States* v. *Cappetto*, 502 F.2d 1351 (7th Cir. 1974).

[85] 18 U.S.C. 1084.

[86] 18 U.S.C. 1953.

[87] 18 U.S.C. 1955.

[88] See *Cappetto*, supra, note 84.

[89] See supra note 83.

[90] See *Cappetto*, supra, note 84.

[91] *Fed. R. Civ. Proc.* Rule 3.

[92] Id., Rule 4.

[93] Id., Rule 8.

[94] Id., Rule 15.

[95] Id., Rule 26.

[96] See *Kastiger* v. *United States*, 406 U.S. 441 (1972).

[97] *Fed. R. Civ. Pro.*, Rule 37.

[98] Supra notes 83 and 88.

[99] See the appendix to this Report for the Commission's proposed statutes for the States and the Federal Government, which include extensive civil remedy provisions.

[100] See the appendix to the Report for "Federal Enclaves," by Peter Waldmeir.

[101] *Worcester* v. *Georgia*, 31 U.S. 515 (1831).

[102] United States Constitution, Art. 1, Section 8, cl. 3.

[103] *Kake Village* v. *Egan*, 369 U.S. 60 (1962).

[104] *United States* v. *Blackfeet Tribe*, 364 F. Supp. 192 (USDC-D Mon. 1973).

[105] Id.

[106] Section 13. Laws of States adopted for areas within Federal jurisdiction

Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in section 7 of this title, is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State, territory, possession, or district in which such place is situated, by the laws thereof in force at the time of such act or omission shall be guilty of a like offense and subject to a like punishment

[107] *Cramer v. United States* 261 U S 219 1923

[108] Pub L No 280-984 82 Stat 73 (1968)

[109] *Santa Rosa Band of Indians v. Kings County* 532 F 2d 655, 659 9th Cir 1975)

[110] Supra note 108, at Section 402(b)

[111] *McClanahan v. Arizona State Tax Commission* 411 U S 164 (1973)

[112] 15 U S C 1175 (1951)

[113] See United States Constitution, Art I Section 8, cl 317

[114] See *Paul v. United States*, 371 U S 245 1963)

[115] This classification is taken from *Department of the Army Pamphlet* No 27-21 (Oct 1973)

[116] Supra note 112.

[117] Supra note 106.

[118] *Williams v. United States*, 327 U S 711 (1946)

[119] See, *Department of the Army Pamphlet* No 27-21, 6-135 (15 Oct 1973) *See* General Counsel, DOD Memo (9 Feb 1976), *See*, General Counsel, DOD Memo (2 February 1976)

[120] United States Constitution, Art. IV, Section 3.

[121] Id.

[122] 15 U S C 1171(b)

[123] Supra note 70.

[124] 61 Stat 319 (1950), 48 U.S C. 731 et seq. (1952), See, 64 Stat. 319 (1950).

[125] 48 U S C 734 *See* also, 15 U S C 1171(b)

[126] Id.

[127] Leibowitz, *The Applicability of Federal Law to the Commonwealth of Puerto Rico*, 56 Georgetown L.J. 219 (1967).

[128] 8 U.S.C. 1101 provides in pertinent part: Section 1101. Definitions

(f) For the purposes of this chapter—

No person shall be regarded as, or found to be, a person of good moral character who, during the period for which good moral character is required to be established, is, or was—

(4) one whose income is derived principally from illegal gambling activities,

(5) one who has been convicted of two or more gambling offenses committed during such period;

8 U.S.C. 1182 provides in pertinent part. Section 1182. Excludable aliens—General classes

(a) Except as otherwise provided in this chapter, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States

(9) Aliens who have been convicted of a crime involving moral turpitude (other than a purely political offense), or aliens who admit having committed such a crime, or aliens who admit committing acts which constitute the essential elements of such a crime, except that aliens who have committed only one such crime while under the age of eighteen years may be granted a visa and admitted if the crime was committed more than five years prior to the date of the application for a visa or other documentation and more than five years prior to date of application for admission to the United States, unless the crime resulted in confinement in a prison or correctional institution in which [illegible] been released from such confinement more than five years prior to the date of the application for a visa or other documentation and for admission, to the United States Any alien who would be excludable because of the conviction of a misdemeanor classifiable as a petty offense under the provisions of section 1(3) of Title 18, by reason of the punishment actually imposed or who would be excludable as one who admits the commission of an offense that is classifiable as a misdemeanor under the provisions of section 1(2) of Title 18, by reason of the punishment which might have been imposed upon him may be granted a visa and admitted to the United States if otherwise admissible *Provided* That the alien has committed only one such offense, or admits the commission of acts which constitute the essential elements of only one such offense

(10) Aliens who have been convicted of two or more offenses (other than purely political offenses) regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement actually imposed were five years or more,

[129] Letter from Sam Bernsen, Acting General Counsel, INS, U.S. Department of Justice, to Charles H. Morin, Chairman, July 9, 1974.

[130] 7 U S C 2044 reads in pertinent part Section 2044 Issuance of certificate of registration—persons qualified

(b) Upon notice and hearing in accordance with regulations prescribed by him, the Secretary may refuse to issue, and may suspend, revoke, or refuse to renew a certificate of registration to any farm labor contractor if he finds that such contractor—

(6) has recruited, employed, or [illegible] the services of a person with knowledge that such person is violating the provisions of the immigration and nationality laws of the United States

(7) has been [illegible] crime under [illegible] Federal law relating to gambling

[131] Letter from Harold C Nystrom Associate Solicitor Division of General Legal Services Department of Labor to Charles H Morin, Chairman, August 5, 1974

[132] Id also see letter from M H Moskow Acting Secretary of Labor, to James E. Ritchie, Executive Director, September 2, 1976

[133] *Supra* note 131.

[134] Letter from M H Moskow *supra* note 132

[135] Section 303 Powers and duties of Commission

Except as otherwise provided in this chapter the Commission from time to time as public convenience interest or necessity requires shall—

(a) Classify radio stations

(b) Prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class,

(c) Assign bands of frequencies to the various classes of stations and assign frequencies for each individual station and determine the power which each station shall use and the time during which it may operate;

(d) Determine the location of classes of stations or individual stations,

(e) Regulate the kind of apparatus to be used with respect to its external effects and the purity and sharpness of the emissions from each station and from the apparatus therein;

(f) Make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the provisions of this chapter: *Provided, however*, That changes in the frequencies, authorized power, or in the times of operation of any station, shall not be made without the consent of the station licensee unless, after a public hearing, the Commission shall determine that such changes will promote public convenience or interest or will serve public necessity, or the provisions of this chapter will be more fully complied with;

(g) Study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest,

(h) Have authority to establish areas or zones to be served by any station,

(i) Have authority to make special regulations applicable to radio stations engaged in chain broadcasting,

(j) Have authority to make general rules and regulations requiring stations to keep such records of programs, transmissions of energy, communications or signals as it may deem desirable,

(k) Have authority to exclude from the requirements of any regulations in whole or in part any radio station upon railroad rolling stock, or to modify such regulations in its discretion

(l) Have authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to such citizens or nationals of the United States as the Commission finds qualified except that in issuing licenses for the operation of radio stations on aircraft the Commission may if it finds that the public interest will be served thereby, waive the requirement of citizenship in the case of persons holding United States pilot certificates or in the case of persons holding foreign aircraft pilot certificates which are valid in the United States on the basis of reciprocal agreements entered into with foreign governments

(m) (1) Have authority to suspend the license of any operator upon proof sufficient to satisfy the Commission that the licensee—

(A) Has violated any provision of any Act treaty or convention binding on the United States, which the Commission is authorized to administer or any regulation made by the Commission under any such Act, treaty, or convention or

(B) has failed to carry out a lawful order of the master or person lawfully in charge of the ship or aircraft on which he is employed or

(C) has willfully damaged or permitted radio apparatus or installations to be damaged or

(D) has transmitted superfluous radio communications or signals or communications containing profane or obscene words, language or meaning or has knowingly transmitted—

(1) false or deceptive signals or communications or

(2) a call signal or letter which has not been assigned by proper authority to the station he is operating or

(E) has willfully or maliciously interfered with any other radio communications or signals or

(F) has obtained or attempted to obtain, or has assisted another to obtain or attempt to obtain an operator's license by fraudulent means

(m) (2) No order of suspension of any operator's license shall take effect until fifteen days' notice in writing thereof, stating the cause for the proposed suspension, has been given to the operator licensee who may make written application to the Commission at any time within said fifteen days for a hearing upon such order The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have fifteen days in which to mail the said application In the event that physical conditions prevent mailing of the application at the expiration of the fifteen-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay Upon receipt by the Commission of such application for hearing said order of suspension shall be held in abeyance until the conclusion of the hearing which shall be conducted under such rules as the Commission may prescribe. Upon the conclusion of said hearing the Commission may affirm, modify, or revoke said order of suspension

(n) Have authority to inspect all radio installations associated with stations required to be licensed by any Act or which are subject to the provisions of any Act, treaty, or convention binding on the United States, to ascertain whether in construction, installation, and operation they conform to the requirements of the rules and regulations of the Commission, the provisions of any Act, the terms of any treaty or convention binding on the United States, and the conditions of the license or other instrument of authorization under which they are constructed, installed, or operated.

(o) Have authority to designate call letters of all stations.

(p) Have authority to cause to be published such call letters and such other announcements and data as in the judgment of the Commission may be required for the efficient operation of radio stations subject to the jurisdiction of the United States and for the proper enforcement of this chapter.

(q) Have authority to require the painting and/or illumination of radio towers if and when in its judgment such towers constitute, or there is a reasonable possibility that they may constitute, a menace to air navigation.

(r) Make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this chapter, or any international radio or wire communications treaty or convention, or regulations annexed thereto, including any treaty or convention insofar as it relates to the use of radio, to which the United States is or may hereafter become a party.

(s) Have authority to require that apparatus designed to receive television pictures broadcast simultaneously with sound be capable of adequately receiving all frequencies allocated by the Commission to television broadcasting when such apparatus is shipped in interstate commerce, or is imported from any foreign country into the United States, for sale or resale to the public.

[136] Letter from Ashton R. Hardy, supra note 73.

[137] Letter and enclosures from Richard A. Wiley, General Counsel, Department of Defense, to James E. Ritchie, Executive Director, March 3, 1976. See also that part of this chapter entitled "Federal Enclaves."

[138] 1964 U.S. Code Cong. and Ad. News 2250 (1964).

[139] House Report No. 1053, Dec. 17, 1963.

[140] Senate Report No. 593, Oct. 22, 1963.

[141] Id.

[142] Id., p. 2.

[143] Id., p. 3.

[144] Telephone interview with FBI Special Agent Walter Mangiacotti, Washington, D.C., June, 1976.

[145] *United States v. Gerry*, 515 F.2d 130 (2d Cir. 1975).

[146] *United States v. Nolan*, 420 F.2d 552 (5th Cir. 1969).

[147] *United States v. Pinto*, 503 F.2d 718 (2d Cir. 1974).

[148] See generally Hearings of the Commission on the Review of the National Policy Toward Gambling, May 15, 1974; June 26, 1974; May 10-11, 1976; Washington, D.C.

[149] Report of the National Wiretap Commission, *Electronic Surveillance*, Washington, D.C., p. 267.

CHAPTER 3. STATE AND LOCAL GAMBLING ENFORCEMENT

INTRODUCTION

Most of the responsibility for enforcing antigambling law rests with local police departments. It has been, and remains, an onerous responsibility. Enforcement efforts have never had more than a minimal impact on illegal bookmaking and numbers. Most local enforcement efforts result in the arrest of low-level gambling offenders. Repeatedly, investigations of police departments have found gambling—particularly numbers and bookmaking—to be a prime source of systemic corruption. Even where gambling enforcement is not frustrated by widespread corruption, the difficulties inherent in this area of law enforcement have generated morale problems among lawmen.

Contradictory gambling policies and lack of resources combine to make effective gambling law enforcement an impossible task under present conditions. Reasons for the failure of gambling enforcement are not hard to find. One is that police believe citizens to have little interest in the vigorous enforcement of antigambling laws. This view is only partially correct, however. The Commission's national survey established that although most people—even those who do not favor legalization or decriminalization—regard gambling as having very low priority for police activity, there is more public support for gambling enforcement than is generally recognized. Nearly half the citizens surveyed thought it "very important" to enforce gambling laws, and over half thought that bookmakers should be arrested and jailed.

Another reason is the leniency of the courts in gambling cases, and its effect on law enforcement personnel. The almost uniformly light sentences given to persons convicted of gambling offenses bear out the police view that judges do not regard gambling offenders as serious threats to the community. Similarly, prosecutors appear to reduce charges or decline prosecution in a substantial number of gambling cases presented by police.

Finally, the people who run illegal gambling operations have often been connected with political machines, so that corruptive influences may reach beyond the police department and make honest enforcement even more difficult.

The trend in gambling enforcement in recent years, perhaps in response to these problems, has been toward less activity by city police departments, together with an increasing role for State and Federal authorities.

Central to any discussion of illegal gambling is the fact that "gambling" refers not to a single entity, but to a number of diverse activities that have differing implications for law enforcement. Illegal games vary in their structure from highly organized operations—for instance, the intricate network of locations and employees involved in a large numbers operation—to the spontaneity of street-corner cardplaying among friends. A numbers operator who pays protection to police and channels profits into narcotics poses a substantially different threat to the community than does a social club sponsoring bingo or card games for its members. Public social gambling and the lower levels of numbers operations are subject to enforcement without use of the sophisticated tools and procedures required to reach bookmakers, numbers bosses, and organized card or dice games. Finally, the nature and size of illegal gaming operations vary by geographical region and by city size. Thus the task of gambling enforcement is not exactly the same for all police departments, nor is it the same within a single department for all types of illegal gambling.

ARREST TRENDS

In 1974, the most recent year for which nationwide figures are available, an estimated 61,900 persons were arrested for gambling in the United States.[1] Gambling arrests accounted for 0.7 percent of the estimated 9 million arrests made for all offenses that year.

There are several characteristics of, and trends in, gambling arrests that are important to the study of this area of law enforcement. For the past decade and a half, there has been a steady and substantial decline in gambling arrests. Between 1973 and 1974, arrests for gambling violations dropped 11 percent. During the 14 years from 1960 to 1974, gambling arrests declined 67.7 percent, while during the same period arrests for all offenses rose 3[illegible] percent.[2]

Since 1972 the FBI's Uniform Crime Reports have included separate figures for three categories of gambling arrests: bookmaking, numbers/lottery, and all other gambling.[3] The latter category consists primarily of card and dice arrests which are usually low-level street arrests. Included in this category in such enforcement activity is the arrest or citing of participants in a streetcorner crap game.[4] In 1974, 79 percent of gambling arrests were for "all other gambling." In the 3 years since 1972, "all other gambling" arrests have increased in relation to arrests for bookmaking and numbers/lottery (table 3-1).

TABLE 3-1.—U.S. GAMBLING ARRESTS BY TYPE OF GAME, 1972-1974

	1972	1973	1974
Bookmaking	10%	9%	8%
Numbers/Lottery	20%	17%	13%
All Other Gambling	70%	74%	79%
TOTAL NUMBER OF GAMBLING ARRESTS	78,600	68,300	61,900

In addition to the prohibitions aimed at the operators and employees of gambling enterprises, the statutes of some jurisdictions prohibit betting as well. Although it appears that there are wide variations in efforts to enforce betting prohibitions,[5] available data are insufficient to support even a general statement of the extent to which these laws are enforced.

Most gambling arrests are made by police departments in large urban areas. In 1974, 66 percent of gambling arrests were made in cities with populations of over 250,000, while only 10 percent were made in cities with populations of between 100,000 and 250,000. Fourteen percent of gambling arrests in 1974 were in suburban and rural jurisdictions.[6] The rate of gambling arrests per 100,000 persons for the various population groups also highlights the fact that most gambling arrests are made in large cities. The 1974 rate for cities over 250,000 (86.8 arrests per 100,000) is slightly more than twice that of cities between 100,000 and 250,000, which have the next highest rate, 40.9 per 100,000.

There is substantial variation in the rate of gambling arrests in major cities. In 1973, there were six cities with populations over 250,000 which had a gambling arrest rate

TABLE 3-2.—MAJOR CITY GAMBLING ARREST RATES, 1973

	1973 Gambling arrests	Estimated 1973 population (1,000's)	Gambling arrest rate per 100,000 population		1973 Gambling arrests	Estimated 1973 population (1,000's)	Gambling arrest rate per 100,000 population
Newark	1,356	368	368.5	Oklahoma City*	223	374	59.6
Cleveland	2,432	679	358.2	Toledo	187	377	49.6
Kansas City, Mo.	1,612	488	330.3	Austin	127	291	43.6
St. Louis	1,804	558	323.3	New York*	3,291	7,647	43.0
Memphis	2,053	659	311.5	Miami	150	354	42.3
Honolulu	1,012	325	311.4	Oakland	144	346	41.6
Dallas*	2,295	816	281.3	Omaha	157	377	41.6
Chicago	7,082	3,173	223.2	Buffalo	150	425	35.3
Fort Worth	800	360	222.2	Columbus, Ohio	166	541	30.7
Norfolk	578	283	204.2	Detroit	345	1,387	24.9
Houston	2,664	1,320	201.8	Seattle	123	503	24.5
Indianapolis	1,400	728	192.3	Wichita	59	261	22.6
Los Angeles	5,004	2,747	182.2	Akron	44	262	16.8
Washington, D.C.	1,304	734	177.7	El Paso	55	353	15.6
Philadelphia	3,225	1,862	173.2	Birmingham	42	296	14.2
Cincinnati	622	426	146.0	Charlotte*	33	285	11.6
Louisville*	478	336	142.3	Long Beach	35	347	10.1
Atlanta	626	451	138.8	Phoenix	56	637	8.8
San Antonio	1,047	756	138.5	San Diego	59	757	7.8
Tulsa	454	335	135.5	Portland, Oregon	27	378	7.1
Baltimore	1,174	878	133.7	Sacramento*	17	267	6.4
Rochester	329	277	118.8	San Jose	28	523	5.4
Jacksonville*	403	522	77.2	Denver	24	516	4.7
Jersey City	182	255	71.4	St. Paul	5	287	1.7
San Francisco	480	687	69.9	Minneapolis	6	382	1.5
Boston	414	618	67.0	Albuquerque	4	274	1.5
New Orleans	356	573	62.1	Milwaukee	6	691	0.9
Tampa	165	276	59.8	Tucson	0	308	0

*Based on 1972 arrests.

in excess of 300 per 100,00 population. Eleven other cities of comparable size reported gambling arrests at a rate less than 10 per 100,000. In table 3-2, 56 major cities are ranked according to their gambling arrest rate for 1973.

Although large-city gambling arrests account for the majority of all gambling arrests, such arrests are declining at a faster rate than in other population groups. Most of the overall decline in gambling arrests during the past 5 years is due to the sharp decrease in gambling arrests in cities with more than 250,000 people. During the same period, suburban gambling arrests rose slightly, while the rate of gambling arrests in cities between 10,000 and 250,000 remained relatively stable. Gambling arrests in cities under 10,000 increased somewhat. There has been a slight decline in rural gambling arrests [7] (table 3-3) [8]

TABLE 3-3.—U.S. GAMBLING ARRESTS BY POPULATION GROUP, 1969 AND 1974

	Percent of all gambling arrests		Rate per 100,000 population	
	1969	1974	1969	1974
CITY GAMBLING ARRESTS	94	93	67.3	41.1
Over 250,000	78	66	148.9	86.8
100,000-250,000	7	10	39.5	40.9
50,000-100,000	4	6	19.1	19.2
25,000-50,000	2	4	13.6	13.8
10,000-25,000	2	3	9.2	9.4
Under 10,000	1	3	6.2	12.7
SUBURBAN GAMBLING ARRESTS	5	12	10.6	11.7
RURAL GAMBLING ARRESTS	1	2	14.4	6.3
TOTAL GAMBLING ARRESTS	—	—	54.3	34.2

Source: Uniform Crime Reports.

Persons arrested for gambling tend to be older than those arrested for other offenses. In 1974, the average age of persons arrested for gambling was 38.5; for persons arrested for all offenses, it was 26.8. (See table 3-4 for age distribution.) The 1969 age distribution approximates that of 1974; however, the ages of all persons arrested in 1974, including gambling arrests, tended to be slightly higher than in 1969.

Women are arrested at a lower rate for gambling offenses than for all offenses. In 1974, 16.9 percent of those arrested for all offenses were women; however, women accounted for only 8.5 percent of those arrested for gambling offenses. During the years 1960 to 1974, the arrest rate for women, as a percentage of total arrests, has increased more sharply for all offenses than for gambling (table 3-5).

TABLE 3-4.—AGE DISTRIBUTION OF PERSONS ARRESTED IN THE UNITED STATES IN 1974, GAMBLING OFFENSES AND ALL OFFENSES

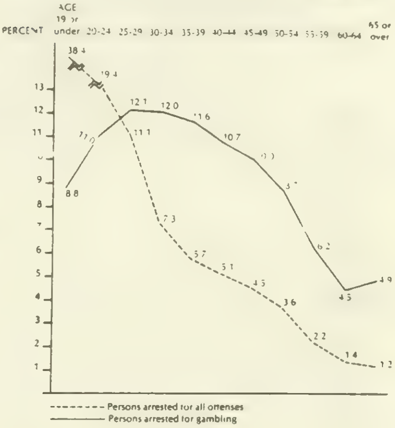


TABLE 3-5.—ARREST OF FEMALES IN THE UNITED STATES FOR GAMBLING AND FOR ALL OFFENSES, 1960 AND 1974

	1960	1974
% Female, Arrests for Gambling	7.9	8.5
% Female, Arrests for All Offenses	10.7	16.9

Gambling arrests by race, as reported by the Uniform Crime Reports, reveal that blacks are arrested for gambling at a substantially higher rate than are whites or other races. Although blacks account for only about 11 percent of the total population of the United States, they accounted for 72.8 percent of gambling arrests in 1974 (table 3-6). Blacks account for a greater percentage of city gambling arrests (75.7 percent) than for suburban (47.2 percent) or rural (31.7 percent) gambling arrests. During the 5-year period 1969 to 1974, arrests of white persons, as a percentage of all gambling arrests, declined 7 percent; at the same time, the percentage for black persons rose 6.3 percent.

Although a disproportionate number of blacks are arrested for gambling, gambling laws or their enforcement cannot be said to be discriminatory in the usual sense. Visibility, rather than race, is the basis for these arrests. Black participation in public social gambling (i.e., card or dice games) and numbers writing is high compared to

TABLE 3-6 —RACE OF PERSONS ARRESTED FOR GAMBLING AND FOR ALL OFFENSES IN THE UNITED STATES, 1974

	% White	% Black	% In-dian	% Chi-nese	% Japa-nese	% All others
Total arrests, all offenses	70.3	26.7	1.5	1	.1	1.4
TOTAL GAMBLING ARRESTS	22.2	72.8	.1	.2	.5	4.3
% change since 1969	−7.0	+6.3				
City arrests, all offenses	67.5	29.4	1.5	.1	.1	1.5
CITY GAMBLING ARRESTS	20.1	75.7	.1	.2	.5	3.5
% change since 1969	−5.6	+5.9				
Suburban arrests, all offenses	83.9	14.7	.4	—*	.1	.9
SUBURBAN GAMBLING ARRESTS	46.6	47.2	—*	—*	—*	6.1
% change since 1969	−28.9	+22.7				
Rural arrests, all offenses	84.0	11.7	3.0	—*	1	1.2
RURAL GAMBLING ARRESTS	47.4	31.7	.1	.5	1.7	18.6
% change since 1969	−38.8	+19.3				

* — less than one-tenth of 1 percent
Source: Uniform Crime Reports

the participation of whites. Because these offenses are highly visible to police and have straightforward evidentiary requirements, they account for a substantial majority of gambling arrests. On the other hand, bookmaking, private social gambling, and higher levels of numbers operations—in which white participation is greater—are activities that remain largely hidden from police view and are therefore subject to fewer arrests.

Available data suggest that a substantial proportion of persons arrested for gambling have prior arrest records. Forty-seven percent of the gambling defendants to come before the Superior Court of the District of Columbia in 1974 had previously been arrested.[9] More than half of those responding to a Commission-sponsored survey of city police departments said that their departments experience a high recidivism rate for gambling violations. Twenty-five percent said that persons arrested for gambling in their jurisdiction often have a criminal record of nongambling offenses; however, a majority (57 percent), said that gambling arrestees rarely or never have such a record.[10]

Of a sample of gambling offenders arrested in New Jersey between 1969 and 1976, 58 percent had prior records, averaging 3.8 earlier arrests each. Gambling offenses accounted for over half the crimes for which these offenders were previously arrested; violent and property crimes accounted for less than 20 percent.[11]

In an Allegheny County (Pittsburgh), Pa., sample of gambling defendants arrested between 1972 and 1974, 11 percent had four or more previous gambling convictions.[12]

OBJECTIVES

Police objectives concerning gambling regulations are broader than mere enforcement of the prohibition against various gambling activities: They also include fighting organized crime, maintaining a favorable public image of the police department, keeping undesirable activities or persons out of the city, and maintaining public order. The objective of organized-crime control is reflected both in the intent of some gambling statutes and in the view of some police that illegal gambling is related to organized crime. The objectives of preserving the department's public image and of maintaining public order are somewhat related in that, where open gambling such as street card and dice games is permitted to continue, citizens are likely to conclude that police are either corrupt or derelict in their duty.

While full enforcement of gambling prohibitions is often the ostensible goal of police departments, the actual goal generally is to achieve some degree of control over illegal gambling—that is, to maintain an enforcement effort sufficient to discourage open, flagrant disobedience of gambling laws and to avoid charges that the police are not doing anything about gambling. Some police administrators are understandably reluctant to admit that their discretion or authority is broad enough to permit the establishing of policies aimed at achieving goals other than that presumed to be intended by statute—total prohibition.

The fact remains, however, that police administrators do have discretion in deciding how much effort is to be made to enforce antigambling laws. And, in the field, police officers have discretion in deciding which, and to a lesser degree how many, gambling offenders to arrest.

Most gambling enforcement officers and chiefs of police responding to a survey by the International Association of Chiefs of Police (IACP) rated "fighting organized crime" as the most important reason for enforcing gambling laws. At the same time, a majority said that organized crime had little or no connection with illegal gambling in their jurisdictions, although officers from larger cities tended to see more of a connection than those from smaller cities.[13] However, respondents rated the "number of organized crime figures arrested on gambling charges" as the fourth most important measure of gambling enforcement effectiveness, behind "a good record of responding to and following up citizen complaints," "reduced availability of gambling," and "disruption of gambling operations."

In testimony before the National Gambling Commission, Boston's police commissioner stated that the Boston Police Department's policy in bookmaking enforcement is one of "containment rather than eradication." [14] Representatives of the Chicago Police Department noted that "enforcement activity is not geared toward elimination of gambling, as this is an unreal objective; however, enforcement activity is directed toward ameliorating gambling activity to levels of low incidence and high risk."[15]

CONSTRAINTS

The Difficulties of Gambling Enforcement

The failure of full enforcement as a realistic goal has resulted from several constraints on gambling enforcement, involving the difficulties of enforcement, public attitudes, and the actions and attitudes of police and other criminal justice personnel. The failure of citizens to report illegal gambling makes it necessary for police to seek out violations. However, most gamblers restrict their activities to places well hidden from public and police view. Although numbers writing is usually conducted relatively openly, making it susceptible to police observation, numbers offices and banks, bookmakers, and operators of high-stakes card and dice games take elaborate precautions to avoid police detection. Bookmakers often use an answering service or an electronic device such as a "cheese box" to prevent discovery of their location. Numbers writers and others in the lower strata of gambling organizations frequently are not apprised of the identity of superiors or locations beyond those needed to carry out their functions. Other security—such as lookouts circulating near gambling operations, automatic cameras, surveillance of entryways, and doors requiring considerable effort to break down—provide warnings of police raids or other actions and the opportunity to dispose of such evidence as bets recorded on rice paper or the money in a card or dice game.

The interjurisdictional nature of many gambling operations has also increased the difficulty of gambling enforcement. Even if police could successfully disrupt gambling operations within their jurisdiction, other locations of the same organization might exist in neighboring jurisdictions. If police there are unwilling to cooperate, there is little that police in the first jurisdiction can do about it. Even where different police agencies have worked together, their cooperation has often been strained, with each agency somewhat unsure of the other's integrity, or with one agency taking premature action that nullifies the other's efforts.

Prior to 1961 there was, in many States, little to deter police from conducting illegal searches and seizures. In many instances persons suspected of gambling activities were stopped and searched, and raids conducted without probable cause. The U.S. Supreme Court's 1961 *Mapp* v. *Ohio* decision, however, held that evidence obtained in violation of the fourth amendment may not be used in court. When *Mapp* v. *Ohio* made the exclusionary rule mandatory in all States, the difficulty of gambling enforcement was increased for police in States which had not previously adopted an exclusionary rule.

A majority of respondents to the IACP survey thought it "very difficult" to obtain sufficient evidence to make a good case against persons suspected of bookmaking or numbers operations; one-third thought it "very difficult" to obtain evidence against card or dice game operations. Evidence against numbers and bookmaking operations was seen as somewhat more difficult to obtain than evidence in cases involving the sale or distribution of narcotics, and substantially more difficult than in cases involving after-hours liquor sales or possession of marihuana. Similarly, in a survey of Washington, D.C., police officers respondents evaluated numbers-running and running a poker game as crimes for which it is difficult to make a case stick.[16] Respondents to the Commission's survey of Fraternal Order of Police (FOP) members rated bookmaking, running a numbers operation, and, to a lesser degree, running card or dice games as offenses for which is difficult to make quality arrests.[17]

The Priority of Gambling Enforcement

Public apathy exerts a constraining influence on gambling enforcement. A nationwide survey of citizens conducted for the Commission found that there is widespread community feeling that enforcement of gambling laws is less important than enforcement of laws against crimes of violence and property crimes. Only a fifth of the citizens surveyed think gambling enforcement is more important than enforcement against other vice offenses. Less than one-third of respondents indicated that they would report a person taking illegal sports bets, compared to more than twice that many who said they would report other crimes such as robbery and the sale of marihuana. The survey found that a majority of citizens nonetheless believe that gambling offenders should be arrested.[18]

Police think public apathy toward gambling enforcement is even greater than do citizens who were surveyed. Eighty percent of the respondents to the Commission's FOP survey agreed that the public does not care if gambling laws are enforced. Three-fourths of the respondents to the IACP survey rated citizen support of police in gambling investigations and arrests as "poor"; fewer than 10 percent rated citizen support as "very good" or "excellent."

The priority that police departments give to gambling enforcement varies with the type of gambling activity. The IACP survey asked police about the level of the enforcement effort against various gambling offenses relative to the effort against other plaintiffless crimes. Enforcement against bookmaking operations was found to be slightly more "active and aggressive" than that directed against after-hours liquor sales and possession of marihuana. Enforcement against those crimes was in turn found to be somewhat more "active and aggressive" than enforcement against numbers and card or dice game operations. Enforcement of laws against the sale or distribution of narcotics was found to be substantially more active than that against any of the above offenses. Participatory gambling offenses as a whole were found to be subject to less active enforcement than operating offenses except for betting with a bookmaker, which was subject to approximately the same enforcement effort as numbers operations.

Police officers appear to be aware, at least indirectly, of the relatively low priority that enforcement against some types of gambling has for their departments. FOP survey respondents believe that laws against bookmaking, numbers, and card or dice game operations are less actively enforced by their departments than laws against such activities as petty larceny, receiving stolen property, and the possession of small amounts of marihuana

Perhaps the clearest reflection of some police departments' lack of serious commitment to gambling enforcement is the use of arrest quotas. "Meeting the quota" has become often more important than the quality of the gambling enforcement effort, both to administrators and subsequently to officers within a department. When this occurs, the attitudes of officers toward gambling enforcement combine with their perception—a correct one—of the department's view of gambling enforcement as a low-priority effort designed only to produce a series of what might be called "symbolic" gambling arrests—that is, gambling arrests that meet the quota, thereby fulfilling the department's requirements of continuing enforcement activity even though police officers and administrators are well aware that these arrests will result neither in meaningful sentences nor in any significant impact on illegal gambling. Thirty-two percent of the departments responding to the IACP questionnaire use gambling arrest quotas. (The existence of gambling arrest quotas did not vary significantly with city size, although quotas were found slightly less often in cities over 250,000.)

Police are keenly aware that very little punitive action is likely to be taken against gambling offenders after their arrest. More than 70 percent of FOP respondents agreed that prosecutors would rather not be bothered with gambling cases. Approximately 64 percent believe that gambling defendants are usually found not guilty, and about 85 percent feel that local judges usually give light fines or suspended sentences in gambling cases. A majority of IACP respondents anticipate little or no likelihood of a jail sentence for a felony gambling conviction, and expect that small fines and/or probation are most likely to be given for bookmaking and numbers convictions.

Available statistics indicate that a substantial proportion of persons arrested for gambling either are not prosecuted, are prosecuted on reduced charges, are not convicted, or, if convicted, receive sentences that do not reflect the statutory provisions for gambling offenses.[19] This problem exists, particularly in urban areas, for all classes of offenses.

None of the practices and attitudes discussed here is unique to gambling enforcement; yet few other offenses are subject to this same combination of constraints. Given these constraints, it is not surprising that police do not attempt full enforcement of gambling laws or that their attempts to control gambling are often frustrated.

Corruption

Corruption is yet another constraint on effective gambling enforcement. A number of police departments, both large and small, have experienced corruption related to gambling enforcement.[20] The most recent large-city examples are Philadelphia and New York, where investigative commissions reported widespread and systematic payoffs to both plainclothes and uniform police officers by gambling operators.[21] The Knapp Commission found corruption in the New York City Police Department to be "at its most sophisticated among plainclothesmen assigned to enforce gambling laws." Participation in organized payoffs—a "pad"—netted individual New York plainclothes officers monthly amounts ranging from $300 to $1,500. In return for protection from enforcement (except for occasional token arrests) gambling establishments paid as much as $3,500 a month. In March 1972, 5 months before the Knapp Commission report was published, the Pennsylvania Crime Commission initiated a 2-year investigation of corruption in the Philadelphia Police Department. That commission concluded that the "open and flagrant gambling in every area of the City" which operated "with no apparent interference from the Police Department" was due to the fact that "police throughout the City accept protection money from gamblers." [22] Gambling corruption on a lesser scale has been found in such smaller cities as Carbondale and Reading, Pennsylvania; Syracuse and Schenectady, New York; and New Haven, Connecticut.[23]

Police corruption exists not only in gambling enforcement, but in other areas as well. Investigations in a number of jurisdictions have also uncovered misconduct related to enforcement of narcotics, prostitution, liquor establishments, construction site regulations, and traffic. These forms of police corruption, like those found in gambling enforcement, are largely an urban problem

Where it exists, gambling corruption has an impact not only on the quality of gambling enforcement, but in other areas as well. Involvement in gambling payoffs often leads to corruption involving other offenses. The same people who pay for gambling protection may offer money for protection involving narcotics, burglary, or other crimes. Taking gambling payoffs can be merely an intermediate step in a process of progressive corruption.[24] Obviously, widespread corruption in a police department damages the department's capability to perform its function. The control of administrators over personnel is weakened, and officers may neglect their duties in an effort to maintain or increase their income from payoffs.[25]

The most serious consequence of gambling corruption is the loss of public confidence in police integrity. As citizens become aware of police misconduct, they tend to become cynical about law enforcement generally.[26]

Gambling corruption is by no means limited to police. Other parts of the criminal justice system and elected officials have also been affected.[27] Police nevertheless remain the most likely targets for corrupting influences. The fact that police operate at the entry point of the criminal justice system makes them both available and desirable as recipients of payoffs and bribes. Even though generally there is little for gamblers to fear at the hands of prosecutors and courts, it is still advisable to avoid arrest. Often more important than avoiding the arrest itself is avoiding the accompanying seizure of gambling records, which can be highly disruptive to the operation.[28]

Several factors contributing to police gambling corruption lie outside of the direct control of police. Public demand for police services centers around crimes of violence and property crimes, rather than around gambling and other vice offenses.[29] The demand for gambling enforcement is further weakened by the fact that while some forms of gambling are illegal, other, similar forms are legal. The view of gambling as "nonserious" is reinforced when prosecutors reduce charges or decline to prosecute, and when judges give minimal sentences for gambling convictions.[30] The lack of demand for gambling enforcement increases the temptation for police to accept payoffs for nonenforcement.

Corrupt practices in other segments of the community—business, politics, the professions—help create an atmosphere in which corruption becomes acceptable.

Police do, however, have control over departmental policies relating to gambling enforcement and corruption. Unfortunately, this control has not generally been used effectively to control gambling corruption. The traditional public response of police administrators to corruption has been to deny its existence except when scandal has rendered this position untenable. The second-line defense has been the "rotten apple" theory by which police corruption is said to be caused by a few bad cops in an otherwise clean department.[31] Many police officials have maintained this position even in the face of pervasive, organized gambling corruption and the findings of outside investigative bodies to the contrary. Police efforts to prevent recurring corruption have generally taken the form of new procedures in gambling enforcement and new prohibitions on the activities of gambling enforcement officers. The ineffectiveness of most anticorruption activities "suggest(s) either intentional efforts to deceive the public into believing something is being done or incredible naivete about the effectiveness of administrative procedures." [32]

For some police administrators, the basic task has been largely that of achieving a balance between efficiency and integrity in gambling enforcement. The level of success has not generally been high for either objective. Departments have periodically transferred and/or reorganized gambling enforcement personnel in an effort to combat corruption by disrupting patterns of loyalty among officers who work together for a long period of time and by establishing new lines of command. Underlying the use of arrest quotas is the notion that officers will not accept payoffs from the persons they arrest. Plainclothes officers in the New York City Police Department were once required to keep daily records of all investigative activity, the theory being that the recorded activities could later be verified if misconduct were suspected. Applications for search and arrest warrants necessitated lengthy written justification. In addition to investigative forms and administrative reports generated by individual arrests of gamblers, daily, monthly, and annual reports of gambling enforcement activity were mandatory.[33]

Such administrative controls did not have the desired results. Organized, systemic corruption in gambling enforcement has, in several large departments, survived repeated transfers, reorganizations, and other control efforts. It is a simple matter for officers to collect gambling payoffs on off-duty hours and submit a truthful record of their on-duty activity. Voluminous paperwork requirements are a disincentive to making gambling arrests.

The notion of a tradeoff between integrity and efficiency is also reflected in the practice of limiting the length of time officers may be assigned to gambling enforcement. Although the certainty of transfer reduces the likelihood of corruption, it also reduces the level of expertise and, therefore, of efficency. Twenty-three percent of the city police departments responding to the IACP survey currently place a limit on gambling assignments.

Gambling corruption is largely, though not exclusively, a problem of large-city police departments. Of the 298 departments surveyed by IACP, 17 percent have, within the past 5 years, investigated officers for alleged misconduct in connection with gambling enforcement. Eleven percent of the departments found officers guilty of such misconduct. Both investigations and findings of misconduct were more frequent in larger cities than in smaller ones (table 3-7).

TABLE 3-7 —MISCONDUCT RELATED TO GAMBLING ENFORCEMENT IN CITY POLICE DEPARTMENTS 1972-1976

Cities	Percent reporting investigations	Percent reporting department finding of guilty
250,000 and over (n-36)	30	25
100,000 to 250,000 (n-71)	27	15
50,000 to 100,000 (n-65)	17	12
25,000 to 50,000 (n-119)	9	4

(Based on International Association of Chiefs of Police survey of city police departments, conducted for the National Gambling Commission.)

During the past decade, the attempts of police administrators to combat gambling corruption have become less reactive and more preventive. Perhaps most important has been an increased willingness on the part of police officials to face the fact and extent of police corruption squarely.[34] Instead of denying the magnitude of the problem and attempting to divert attention to corruption in other quarters, many police administrators are making a stronger commitment to corruption control than has been the case in the past. Many departments have created internal affairs units with responsibility for investigating alleged misconduct and, more recently, for identifying areas with corruption potential and developing means for reducing that potential. An additional development has been the increasing emphasis on education and professionalism in law enforcement, which might be expected ultimately to have an impact on corruption.

In the early 1970's, the New York City Police Department's efforts to control gambling corruption took a new direction. Uniformed officers were directed to make gambling arrests only in the presence of a superior officer. Similarly, supervisors of plainclothes gambling investigators were required to approve and to be present at gambling arrests and the execution of search warrants. In effect, enforcement was restricted to high-level figures in gambling operations, with an emphasis on the quality rather than the quantity of arrests. Low-level arrests were to be made only in response to complaints.

At the same time, the internal affairs emphasis on investigating and punishing wrongdoing was broadened to include intensified efforts to detect and deter corruption. These efforts included surveillance of plainclothes investigators, legal wiretapping of officers thought to be engaged in misconduct, infiltration of gambling operations, and the establishment of phony gambling businesses by police. The most controversial techniques were the Field Associates Program, in which newly assigned plainclothes investigators were recruited to report any misconduct they observed, and "turnarounds," whereby officers found to be involved in misconduct were persuaded to report on colleagues who were also involved.[35]

In 1973 and again in 1974, integrity assessments conducted by the NYPD concluded that "organized systematic corruption (in gambling enforcement) had been virtually eliminated." Although the question of long-term effectiveness will remain unanswered for some years, it is reasonable to anticipate that a sustained effort that targets discretion in gambling enforcement has more likelihood of success than past efforts.

THE ORGANIZATION OF GAMBLING ENFORCEMENT

Local

The primary responsibility for enforcement rests with local police departments and, in a few jurisdictions, sheriffs' offices.[36] Various departments approach the task of gambling enforcement in different ways. These variations are most apparent in the organization of gambling enforcement personnel. In some departments there is a specialized, gambling-only unit; in others, a vice unit in which resources are also devoted to nongambling offenses; in still others, usually smaller departments, some officers are assigned to enforce gambling laws, but no separate unit exists. Gambling enforcement is most often concentrated at department headquarters, but in some instances, districts or precincts share the responsibility.[37] Some jurisdictions have formed multiagency task forces to deal with the problem of gambling and other types of organized criminal activity.[38] The gambling enforcement efforts of large departments are more highly structured than those of smaller departments. Of large-city police departments (in cities with a population of 100,000 or more) responding to the IACP survey, 32 percent have units devoted exclusively to gambling enforcement; of departments in cities under 100,000, 15 percent have such units. Similarly, half the larger departments reported having a separate intelligence unit, while 26 percent of the smaller departments have intelligence units. The commitment of manpower varies with department size. Seventy-two percent of police departments in cities with more than 250,000 residents have officers assigned full-time to gambling enforcement; in cities between 25,000 and 50,000, 2 percent of the departments have full-time gambling enforcement personnel.

Most gambling arrests are made by plainclothes officers.[39] In the IACP survey, half the departments reported no gambling arrests by uniformed officers; another 17 percent reported that fewer than one-tenth of their gambling arrests were made by uniformed officers.

Departments in cities with a population of at least 25 000 and less than 100 000 were less likely than those in larger cities to have gambling arrests made by uniformed officers. Arrests by police officers in uniform were proportionately highest in departments located in cities with a population of less than 100,000. Of course, uniformed officers often played an indirect role in gambling enforcement by providing information about illegal gambling activity to officers assigned to gambling enforcement.[40]

There is wide variation in the gambling enforcement training given to police officers.[41] For instance, the only formal training by the Philadelphia Police Department, as of March 1974, was that provided to recruits—including approximately 10 hours of vice enforcement instruction. In Washington, D.C., the Metropolitan Police Department academy provides only minimal gambling enforcement training, based primarily on the department's General Orders. Officers assigned to gambling enforcement, however, receive 2 weeks of special training.

Prosecutor assistance to police in gambling investigations varies. Forty-eight percent of police departments responding to the IACP survey said prosecutors never advise or assist during the investigative phase of gambling cases. Twenty-five percent said prosecutors become involved in half or more of their gambling investigations; of those, 11 percent said prosecutors assist or advise in all their gambling investigations.

State

Local police departments have primary responsibility for gambling enforcement, but the role of State-level agencies is growing. This growth has occurred mainly as part of increased State-level efforts against organized crime resulting from the work of legislative and other study commissions, crime investigating commissions, organized-crime prevention councils,[42] and organized-crime control units. Most of these bodies came into being during the late 1960's and early 1970's,[43] many with the assistance of Federal funding.[44]

While the focus of study and investigative commissions has generally been broad, federally assisted organized-crime prevention councils are concerned solely with the organized crime problem and function to define it, to set priorities, and to develop, coordinate, and encourage programs.[45] In 1975, there were organized-crime prevention councils in 14 States (table 3-8).

Intelligence units vary somewhat in function. Some—the New Jersey State Police Intelligence Unit, for instance—work closely with the State investigative-prosecutorial unit. Others, such as the Organized Crime Intelligence Unit of the Maryland State Police, investigate and make arrests. In 1975, there were 20 State-organized crime intelligence units (table 3-8). By that year, 23 States had combined investigative-prosecutorial units modeled after the U.S. Department of Justice's Strike Forces. Most of these units are in the offices of State attorneys general.

TABLE 3-8.—STATE ORGANIZED CRIME PREVENTION/CONTROL GROUPS, 1975

State	Prevention council	Intelligence unit	Investigative-Prosecutive unit
Alabama		X	
Arizona			X
California			X
Colorado	X		X
Connecticut		X	X
Delaware		X	
Florida	X		X
Georgia	X	X	
Hawaii		X	
Idaho			X
Illinois			X
Indiana	X	X	
Iowa			X
Kansas			X
Kentucky		X	
Louisiana			X
Maryland	X	X	
Massachusetts	X		X
Michigan	X	X	X
Minnesota	X		X
Mississippi			X
New Hampshire		X	
New Jersey		X	X
New Mexico			X
New York			X
North Carolina	X	X	
Ohio	X	X	X
Oklahoma	X	X	
Oregon	X		X
Rhode Island		X	X
Tennessee		X	
Texas	X	X	X
Utah			X
Virginia		X	
Washington		X	
West Virginia		X	
Wisconsin			X
Wyoming	X		

Source: *Organized Crime Control Units*, June 1975, Committee on the Office of Attorney General, The National Association of Attorneys General.

Both the intelligence and investigative-prosecutorial units vary in levels of activity and in areas of emphasis. Several have been quite active in gambling enforcement. The combined efforts of the Attorney General's Organized Crime Unit and the State Police Intelligence Unit in Rhode Island during the past few years have resulted in gambling arrests that account for a substantial proportion of that State's total gambling arrests.[46] Eighty percent of the indictments obtained by New York's Organized Crime Task Force during a 15-month period that began in December 1970 were for gambling. In New Jersey, between 1969 and

1974, gambling charges accounted for 27 percent of the indictments obtained by the Attorney General's Special Prosecutions Section. The Special Services department of the Massachusetts State police made approximately 25 percent of all gambling arrests in the State between 1970 and 1973.

A total of 38 States have at least one organized-crime prevention or control group (table 3-8).[47] The upward trend in State-level involvement in gambling enforcement has not reversed the overall downward trend in gambling arrests. State agencies, less restrained by limitations of resources and by the problems of interjurisdictional cooperation that affect the efforts of many local agencies, can often mount a relatively sophisticated and sustained attack against gambling organizations. The eventual impact of the State-level effort may therefore be on the quality rather than on the quantity of gambling arrests.

Federal

The role of Federal agencies in gambling enforcement is discussed in chapter 2. Coordination of Federal and State gambling enforcement efforts with those of local police departments is discussed in the section that follows.

Interagency Cooperation

Police departments surveyed by IACP were asked about the cooperation of Federal, State, and other local agencies in gambling enforcement.[48] Departments in larger cities tended to report a more formal, regular relationship with the Federal Bureau of Investigation and the Internal Revenue Service than those in smaller cities.[49] Eleven percent of the departments in cities having a population of between 25,000 and 49,000 reported no contact with the FBI or IRS. The role of the FBI in gambling enforcement was seen as more important by respondents in cities with a population of 250,000 or more than by those in smaller cities, while respondents in cities with a population of less than 250,000 thought that the role of neighboring police departments, sheriff's offices, and State police was more important.

The IACP survey also asked respondents how important they thought various changes would be in improving the gambling enforcement effort in their jurisdictions. Improved coordination among local law enforcement agencies, and increased State or Federal responsibility, were thought to be less important than increased public support, additional enforcement tools, and more serious treatment by other components of the criminal justice system.

GAMBLING ENFORCEMENT TOOLS AND TECHNIQUES

Illegal gambling, in common with a number of other offenses,[50] has two characteristics which affect the manner in which gambling laws are enforced. First, gambling is a plaintiffless crime—that is, the players are willing participants who, as a rule, do not complain to the police that a crime has been committed. Enforcement activity, therefore, must be initiated by the police, who then act as the complainant on behalf of the community. In contrast, enforcement activity aimed at such crimes as burglaries or muggings usually occurs in response to citizen complaints.[51]

A second factor is that gambling—unlike rapes, robberies, etc., which may be viewed as separate criminal incidents having specific perpetrators—is an organized, ongoing activity that often involves a hierarchical structure.[52] Where there is an identifiable criminal incident, police may be said to have "solved the crime" when they have apprehended the person who committed it: The objective in those cases is clear, and the number of arrests is a partial indicator of police effectiveness. In gambling cases, however, neither criminal incident nor perpetrator is clearly defined.[53] Thus, the number of arrests is less useful as a goal or as a measure of effectiveness. Even a large number of arrests may have no effect on the continuing illegal activity and may leave the principal violators untouched. Gambling enforcement, therefore, involves the use of techniques that enable officers to detect violations that remain largely unreported and to identify and gather evidence against violators who may be insulated by several layers of employees.

For uniformed police officers, the most frequent source of gambling arrests is the direct observation of illegal gambling activity. Such arrests are primarily "nonserious," reaching only individual street players or low-level employees of gambling organizations. Arrests at higher levels—i.e., large bookmakers or numbers offices and banks—can rarely, if ever, be made in this manner. They require investigation leading to probable cause for search in arrest warrants. These investigations are the province of plainclothes officers who have traditionally used such techniques as physical surveillance, informant information, and undercover operations.

Surveillance may target individuals or premises. Observing known gamblers visiting a house or club may contribute to probable cause for obtaining a search warrant for those premises. Conversely, surveillance of an individual may lead to the identification of locations that were not previously known to be involved in a gambling operation. Surveillance is one of the most widely used techniques, with only 6 percent of the IACP respondents saying that their department never has physical surveillance in gambling enforcement.

The use of informers is also widespread; 95 percent of the departments responding to the IACP survey reported that they rely on that technique. Informers provide gambling information to police for a variety of reasons.

In some instances they are paid for their information, in others, the consideration may be the reduction or dropping of pending charges. Some persons engaged in illegal gambling seek to improve their own position by informing on their competition. Some informers cooperate with police for reasons that are not always apparent: It may be to get or remain on the good side of a police officer, or to satisfy a personal grudge.

Another source of information is citizen complaints. As noted, these are not made by persons who consider themselves to be victims of a crime in the usual sense. Rather, they may be disgruntled bettors who perhaps have not been paid their winnings; relatives who are concerned for a bettor's well-being, or citizens who complain of a disturbance where persons have gathered to gamble.

Undercover investigators often can accumulate evidence against individuals and an operation by placing bets. With a greater investment of time, undercover operators can often infiltrate an operation and obtain evidence against mid- and upper-level personnel. Eighty-six percent of the IACP respondents reported some use of gambling undercover operations, with large-city departments reporting more frequent use than small-city departments.

In recent years, additional tools have become more widely available for use in State and local gambling enforcement. The most important of these is electronic surveillance, authorized by Congress in 1968 under Title III of the Omnibus Crime Control and Safe Streets Act.[54] Electronic surveillance is particularly well suited for use in gambling investigations because of the dependence of gambling operations on telephones.[55] During 1968, only four States (Arizona, Georgia, Massachusetts, and New York) reported electronic surveillance orders. By the end of 1975, electronic surveillance in gambling cases was authorized in 21 States and the District of Columbia (table 3-9). From 1969 (the first full year for which figures are available) to 1975, the number of gambling electronic surveillance orders increased from 79 to 339. During that same 7-year period, gambling accounted for approximately 50 percent of all electronic surveillance orders.[56] (See table 3-10.)

Also used in gambling investigations is the pen register —a device which records phone numbers dialed from a particular telephone. By attaching a pen register to the telephone line of a gambling location, police can often identify additional locations and persons involved in an illegal gambling operation. Current law regarding the use of pen registers is not clear, nor is information available about the extent to which they are used.[57]

In recent years, there has been a growing amount of State legislation aimed at syndicated or commercial gambling. As of January 1975, syndicated gambling statutes had been enacted in 20 States. Fifteen of these laws were enacted between 1968 and 1974.[58] While statutory definitions vary, the general intent of these laws is to differentiate between casual social gambling among individuals, and syndicated gambling operations, and to provide severe penalties [59] for persons involved in the latter.

TABLE 3-9.—STATES WITH STATUTES AUTHORIZING ELECTRONIC SURVEILLANCE IN GAMBLING CASES, EFFECTIVE DURING 1975

Arizona
Colorado[*]
Connecticut
Delaware
District of Columbia
Florida[a]
Georgia
Kansas[*]
Maryland
Massachusetts[a]
Minnesota
Nebraska
Nevada[*]
New Hampshire
New Jersey
New Mexico
New York
Oregon[*b]
Rhode Island
South Dakota
Washington[*b]
Wisconsin[c]

[*] No wiretaps reported in 1975

[a] Organized gambling only

[b] Only if human life is endangered

[c] Commercial gambling only

Source Administrative Office of the United States Courts, *Report on Applications for Orders Authorizing or Approving the Interception of Wire or Oral Communications* 1975, p II

TABLE 3-10.—STATE ELECTRONIC SURVEILLANCE ORDERS, 1969-1973

Year	All orders	Gambling orders	Percent gambling orders
1969	269	79	29.4
1970	414	205	49.5
1971	531	319	60.1
1972	649	351	54.1
1973	734	365	49.7
1974	607	313	51.6
1975	593	339	57.2
TOTAL	3,797	1,971	51.9

Source: Administrative Office of the United States Courts, *Report on Applications for Orders Authorizing or Approving the Interception of Wire or Oral Communications*

Since 1968, five States have established statewide grand juries [60] which, with jurisdiction unrestricted by local boundaries and with the authority to subpena witnesses and grant immunity,[61] can be an important investigative tool in gambling enforcement. Several other States [62] permit the Attorney General broad powers in using grand juries for the purpose of investigation, but do not permit the convening of a statewide grand jury. To date, only New Jersey's statewide grand juries have become significantly involved in gambling. Of the 841 indictments returned from 1969 through 1973, 122 (14.5 percent) were for gambling violations. This is nearly twice as many indictments as for any other single type of offense.

Immunity statutes provide another tool that can be useful in gambling enforcement. An immunized witness who refuses to testify can be cited for civil contempt and jailed. Statutes in 39 States authorize the use of immunity in gambling cases [63] (see table 3-11). Twenty-seven of these States have general immunity statutes,[64] another 10 States specify gambling as one of the offenses for which immunity can be granted, and 2 States authorize the use of immunity in cases involving organized crime.[65] Although the remaining 11 States have immunity statutes, gambling is not among the offenses for which its use is authorized.

It is not known to what extent immunity is in fact used in gambling cases. However, witnesses have traditionally been immunized and compelled to testify in cases in which it is difficult to obtain evidence from sources other than a participant in that offense.[66]

All the techniques and tools discussed above are, or have the potential to be, useful in gambling enforcement; there are some shortcomings, however. Plainclothes gambling enforcement is, by its nature, an activity that cannot be easily supervised. Where a lack of supervision results in an unsystematic, uncoordinated gambling enforcement effort, it is clear that the quality of that effort will suffer. Many departments have used arrest quotas to simplify the task of supervision, rating the performance of units and individual officers according to the number of gambling arrests they make. Where quotas are instituted in an attempt to maintain productivity, the result will almost certainly be an emphasis on the number of arrests—"meeting the quota"—rather than on the quality of the cases.[67]

As noted, search and arrest warrants are crucial to enforcement aimed at mid- and high-level gambling operators. This fact, combined with the difficulty of establishing probable cause for warrants, can result in the falsification of warrant affidavits.[68]

Electronic surveillance and undercover operations both require a relatively substantial commitment of resources, primarily in manpower costs.[69] However, this requirement—an important one in light of the perennial problem of limited resources—must be balanced with the fact that these techniques can be very effective in reaching the high-level gambling offenders who are often immune to other techniques.[70]

Despite the more severe sentencing provisions of syndicated or commercial gambling statutes, judges continue to give minimal sentences in gambling cases.[71] Thus, the anticipated effectiveness of severe sentences has not materialized.

Where witness immunity cannot be used in gambling cases, there is little incentive for a witness to cooperate. This is particularly true of low-level operators or employees who may reasonably expect to be sentenced only to a small fine and/or probation. The sentences provided by syndicated gambling statutes might be expected to help convince higher level persons to testify against their colleagues; however, since the higher maximums appear to have little effect on sentencing practices, this incentive exists in theory only.

TABLE 3-11.—STATES AUTHORIZING THE USE OF IMMUNITY IN GAMBLING CASES, JANUARY 1974

General statute			Specific statute
Arizona	Indiana	New York	Connecticut
California	Kansas	North Dakota	Kentucky
Colorado	Maine	Oklahoma	Maryland
Delaware	Massachusetts	Oregon	Mississippi
Florida	Michigan	Rhode Island	Montana
Hawaii	Minnesota	South Dakota	Nebraska
Idaho	Nevada	Utah	New Mexico
Iowa	New Hampshire	West Virginia	North Carolina
Illinois	New Jersey	Wisconsin	Ohio
			Pennsylvania
			Virginia
			Washington

Source: National Association of Attorneys General, *Organized Crime Control Legislation*, January 1975, Ch. 9.

DISPOSITION AND SENTENCING OF GAMBLING OFFENDERS

Of the tens of thousands of persons arrested each year in the United States for gambling offenses, a relatively small proportion are convicted; of those convicted, a very small percentage receive jail or prison sentences or substantial fines.[72] Although comprehensive data do not exist,[73] available examples provide documentation of this pattern in gambling dispositions and sentences.

Records of the Superior Court of the District of Columbia indicate that of cases involving defendants against whom gambling charges were filed in 1973, 48 percent were nolle prossed, no-papered, or dismissed; 43 percent of the defendants in 1973 were convicted.

During 1969, there were 2,096 arrests for felonious gambling in the State of New York, resulting in 281 indictments and 15 convictions. Of 4,720 persons charged with gambling offenses in Philadelphia during 1970, 517 were convicted.[74]

During the 6-year period 1969 to 1974, patrol district officers in the Chicago Police Department arrested 36,207 persons for gambling; 6 percent of those arrested were convicted. During the same period, 12 percent of the 12,976 persons arrested by the department's headquarters Gambling Section were convicted.[75] The Chicago Crime Commission studied a cohort of 122 gambling cases that included all cases transmitted by the Chicago Police Department to the municipal courts during a 2-week period in 1974. In 55 percent of the cases the charges were dismissed; in another 20 percent, the court denied leave to file charges.[76]

There are exceptions to the generally low conviction rates for gambling. Approximately 70 percent of persons appearing in Connecticut Circuit Courts on gambling charges between 1970 and 1974 were convicted. New Jersey, in contrast to most other jurisdictions, treats gambling as a serious offense. This is reflected in dispositions as well as sentences. In a Commission-sponsored study,[77] a sample of persons arrested—primarily for common gambling—by the Newark Police Department was compared to a sample of persons arrested for gambling by the Philadelphia Police Department. Seventy-three percent of the Philadelphia cases were dismissed or discharged, while this occurred in only 4 percent of the Newark cases. Seventy-one percent of the Newark arrests and 6 percent of the Philadelphia arrests resulted in convictions. In the same study a similar pattern of dismissals and convictions was found when samples of more serious gambling cases—primarily involving lotteries—from Newark and Washington, D.C., were compared.[78] Twenty-nine percent of the Newark cases went to trial, compared to 7 percent of the Washington cases. Differences were also found in bail practices and case-processing time. Fifty-six percent of the Washington arrestees and none of the Newark arrestees were released on personal recognizance, and bail amounts were significantly higher in Newark. The average case-processing time—from offense to final disposition—was four times longer in Newark (294 days) than in Washington ([illegible] days).

As noted, jail terms for gambling offenses are rare, and fines are usually nominal. The single exception to this pattern is found in New Jersey, where a substantial number of convicted gambling offenders are sentenced to jail or prison terms.[79] From 1969 through 1974, an average of 184 persons per year were sentenced to State prison terms for gambling offenses. In 1973, 11 percent of persons convicted for gambling in New Jersey were sentenced to prison, and 42 percent were sentenced to jail. In the same year, 9 percent of persons convicted of all offenses in New Jersey were sentenced to prison, and 13 percent were sentenced to jail. In the Commission-sponsored Newark study, 88 percent of convicted gamblers in the sample of cases from the county prosecutor's office were sentenced to jail or prison terms.

In other jurisdictions, suspended sentences, probation, or small fines are the usual sentence for gambling convictions. In California in 1973, of the 333 persons convicted of bookmaking—a felony in California—none were sentenced to prison, 10.2 percent were sentenced to jail, and 78.9 percent were placed on probation. Of those convicted of all felonies in California in 1973, 59 percent were given jail or prison sentences.

Fewer than 3 percent of the persons convicted of gambling in Washington, D.C., in 1973 were given jail terms; another 11 percent were sentenced to jail or a fine; and 55 percent were either given a suspended sentence or placed on probation.[80] Of 517 persons convicted of gambling in Philadelphia in 1970, 5 were sentenced to jail. In Detroit in 1974, 262 persons were convicted of gambling conspiracy; none were jailed. In the gambling cases studied by the Chicago Crime Commission, fines were usually $100 or less.

There are several reasons for judges' apparent reluctance to give more severe sentences to gambling offenders. Jail sentences or substantial fines might be expected where a gambling operation is shown to be associated with organized crime. It appears that such a connection is rarely established for gambling offenders. Two Detroit judges testifying before the National Gambling Commission discussed this issue.[81] Judge Robert Columbo said that the defendants who appeared before him were not known gamblers and were not involved in organized crime. Judge Vincent Brennan questioned whether small-time, non-mob-controlled bookmakers should be jailed. Several Allegheny County (Pittsburgh) judges interviewed by the Pennsylvania Crime Commission agreed that a sentence must primarily reflect the characteristics pertinent to the individual and to the circumstances surrounding the offense, and cannot be made on the basis of a general societal goal of cutting off the flow of revenue to organized crime.[82]

Characteristics of gambling offenders, apart from organized crime considerations, affect the sentences they receive. The Allegheny County Court judges stated that gambling offenders in that court were often housewives, unemployed war veterans, senior citizens, or handicapped or disabled persons. Almost all were from the lower economic strata, and many were living on Social Security or pensions.

Most of the gambling cases that come before judges are of a relatively nonserious nature. Judges in Allegheny County cited a lack of concerted and systematic efforts by police and prosecutors to reach upper level personnel in gambling operations as a chief reason for the light sentences imposed on a majority of offenders. And, like police and prosecutors, judges are affected by the fact that gambling is less serious than some other offenses that must be dealt with daily. Where this combines with a tolerant community attitude toward gambling, judges may find it difficult to justify harsh sentences.

Finally, the existence of legal games affects sentencing decisions in gambling cases. Judge Edward Bell testified that the "State should not run a legal lottery" and at the same time impose "criminal sanctions against illegal numbers.[83] Judge Brennan and several Allegheny County judges questioned the fairness of punishing one person for actions very much like those connected with legal gambling operations.

CITIZEN ATTITUDES TOWARD GAMBLING ENFORCEMENT

It is commonly thought by police and other criminal justice personnel that little public support exists for enforcement of antigambling laws. Inasmuch as police effectiveness depends in part on citizen support, this belief has consequences for gambling enforcement. In formulating gambling enforcement policies it is therefore important to determine the extent to which citizens are willing to assist police gambling enforcement efforts. A related policy question is whether or not citizens are satisfied with existing gambling enforcement efforts. To answer these and other questions, the Commission's national survey asked citizens about their views toward gambling enforcement.[84]

Citizen Support

To determine the level of citizen support for gambling enforcement, three questions were asked: (1) How important to you is it that gambling laws are strictly enforced? (2) Should people who are known to take illegal bets be arrested? (3) If they are arrested do you think they should go to jail? From the responses to these questions, it is apparent that there is significant citizen support for gambling enforcement. Forty-two percent said it is very important to enforce gambling laws; 74 percent said that persons who take illegal bets should be arrested; and 55 percent said that persons convicted of taking illegal bets should go to jail.[85]

Thirty percent of the citizens surveyed agreed with all three; enforcement is very important, persons taking bets should be arrested, and they should be jailed. This group was designated as having a "high" level of support for gambling enforcement. Of the remaining respondents, 33 percent had "medium" support and 37 percent had "low" support for gambling enforcement. The highest support for gambling enforcement was found among those citizens who believe there should be laws against plaintiffless crimes and who had not gambled in the past year.

More support for enforcement was found among citizens living in States with no legal gambling (31 percent) than among those living in States where off-track betting is legal (21 percent). Support among rural residents was slightly higher than that among central city or suburban residents. Citizens were asked questions regarding the extent of organized crime involvement in illegal gambling. Eighty-seven percent thought that profits from illegal gambling are used for drugs and loan-sharking operations while only 26 percent agreed that very few illegal gambling operations are run by organized crime. However, perceptions of organized crime involvement were not found to influence the level of support for gambling enforcement.[86]

While 76 percent of the survey respondents said gambling enforcement was either "fairly important" or "very important," the priority of gambling enforcement was low relative to nine other offenses (table 3-12). The low enforcement priority of gambling compared to such offenses as selling heroin, burglary, or car theft is not unexpected. It is somewhat surprising, however, that only one-fifth of the citizens interviewed thought gambling enforcement was more important than enforcement against public drunkenness, prostitution, and pornography.[87]

Citizen Assistance

Citizens were asked about their willingness to report a gambling violation: If you were certain that you knew of someone who was in the business of taking illegal sports bets, do you think you would probably report it to the police or not? Thirty percent answered "yes." When asked whether they would report other types of offenses, a majority of citizens—ranging from a low of 63.8 percent for selling marihuana to a high of 97.3 percent for robbery—said they would.

TABLE 3-12.—ENFORCEMENT PRIORITY

"Which laws are more important to enforce than laws against gambling?"

	Percent answering		
Offense	"More important"	"Equally important"	"Less important"
Selling heroin	90.1	9.1	0.7
Drunk driving	87.1	11.6	1.3
Burglary	83.2	15.1	1.8
Car theft	80.5	16.8	2.6
Buying stolen property	74.6	20.1	5.3
Sale of marihuana	71.0	16.8	12.2
Public drunkenness	56.2	24.5	19.3
Prostitution	55.0	26.3	18.8
Pornography	51.2	27.9	21.0

The factors that are most closely associated with a willingness to report sports bookmaking to police were a high level of support for gambling enforcement and a belief that police will act on a citizen complaint. Sixty-four percent of citizens with high support for gambling enforcement said they would report; and 94 percent of those who thought police would act said they would report.

Citizen Satisfaction

Citizens were asked whether they thought police should do more than, less than, or the same as they are doing now to enforce laws against illegal gambling. Thirty-nine percent said they wanted more enforcement, 6 percent said they wanted less, and 55 percent said they wanted the same. For the purpose of analysis the respondents were categorized as "satisfied" (persons who wanted the same or less) or "dissatisfied" (persons who wanted more) with current gambling enforcement efforts.

Citizens with high support for gambling enforcement tended to be dissatisfied with current efforts. Citizens' perceptions of the amount of numbers and of police corruption also influenced their satisfaction with enforcement, with the perception of greater amounts of numbers and of police corruption resulting in a greater tendency toward dissatisfaction.

Citizens' satisfaction or dissatisfaction with gambling enforcement had some influence on how they rated overall police performance. Citizens who were satisfied with gambling enforcement were more likely to rate the job police do as "good," "very good," or "excellent" (78 percent) than were citizens who were dissatisfied (60 percent).[88]

CONCLUSIONS AND RECOMMENDATIONS

Current efforts by the criminal justice system to enforce gambling prohibitions are too often characterized by inconsistencies, inefficiency, and ineffectiveness. Solutions are elusive because it is not possible to isolate a single cause of the problems. The Commission believes, however, that significant improvement is possible and that such improvement will require the efforts of both State legislatures and the various agencies of the criminal justice system.

Different jurisdictions experience different kinds of problems in gambling enforcement. Numbers and sports betting are the predominant forms of illegal betting in most major Eastern cities; in large Western cities there is considerable illegal bookmaking but little or no numbers play. Illegal gambling in any form has traditionally been less of a problem in most smaller cities. Citizen support for gambling enforcement varies by size of jurisdiction. Many of the Commission's recommendations, therefore, vary in their applicability. It is the responsibility of the officials and citizens of each State and local jurisdiction to assess the quality of gambling enforcement and, where it is found lacking, to implement appropriate changes.

Many of the Commission's recommendations are relevant to areas beyond gambling. This is particularly true of enforcement against organized crime. The Commission's mandate, however, is limited to gambling; therefore, discussion of the broader applications is left to State and local jurisdictions.

Gambling Policy Decisions

Current gambling policy at the State level accurately reflects the ambivalence and contradiction that have traditionally characterized this Nation's approach to the problem of gambling. The States often have found it difficult to formulate reasonable and consistent gambling policy and law. Over the years, two strong, conflicting sentiments have surfaced: that gambling is a morally and socially destructive activity that must be suppressed, and that the enormous popularity of gambling makes it a suitable activity for governments to channel into useful and productive ends through licensing and taxation. The history of gambling policy in the United States has been a constant tug of war between these two philosophies, in which each side appears to gain the advantage for a certain period and then begins to lose ground. Also underlying the passage of antigambling laws has been the desire to fight organized crime, to maintain public order, or to preserve the work ethic. In the current era of economic distress combined with increasing tolerance of once-proscribed activities, the lure of legal gambling revenues has prompted a number of States to reexamine their gambling policies with a view toward legalization.

Several States have for many years permitted betting at racetracks; more recently, off-track betting has become legal in some jurisdictions. Yet taking bets on horses anywhere except at a track or at an official off-track location is subject to criminal prosecution. Charitable organizations are widely exempted from gambling prohibitions in order that they may sponsor raffles or bingo; similar endeavors of a commercial nature are prohibited. State-run lotteries and numbers games have been instituted, but these same forms of gambling are prohibited if privately run.

Many States are presently attempting to promote and suppress gambling at the same time. While there is nothing inherently wrong with this type of dualistic approach, since gambling is not one but many different activities, there is evidence that neither the legal gambling operations nor the attempts at suppression are achieving their stated objectives. (For a discussion of the objectives and policy decisions regarding legal gambling, see chapter 4 of this Report.) There is some evidence that the existence of gambling sanctioned, licensed, or run by the various States—and the attendant publicity—tends to increase citizen participation in illegal as well as legal gambling.

While State legislators have been quick to prohibit certain forms of gambling, they have generally been less willing to provide the tools necessary to enforce such prohibitions. As a result, law enforcement agencies are faced with an impossible task. In many jurisdictions, the deterrent effect of antigambling laws is weakened by the fact that the illegality of gambling is restricted to persons who take bets while those who make bets are not violating the law in doing so. A majority of States have failed to authorize electronic surveillance—a tool widely accepted as necessary to enforce gambling laws effectively. Similarly, only a few States have instituted investigative grand juries with either statewide or local jurisdiction.

The lack of commitment to enforcement of gambling prohibitions is also reflected in the level of resources devoted to that purpose. Legislative bodies are increasingly reluctant to expand criminal justice appropriations in general; but even in past years when budget increases were more available to criminal justice agencies, little if any effort was made to provide the resources required for a serious gambling enforcement effort. Legislators appear to have considered their task complete upon enactment of antigambling laws, without considering that successful enforcement would likely require additional police, prosecutors, and judges.

A number of States have provided for increased penalties for convicted gambling offenders. However, this appears to have been done without consideration of relevant questions: If judges have rarely made use of the lower maximum sentences previously available to them are they likely to sentence gambling offenders more severely now? If so, will this result in a greater number of trials, necessitating additional prosecutors, judges, and courtrooms? If sentences do increase in severity, can any significant number of gambling offenders be housed in existing jails, or will new ones be needed?

States also have not established priorities among the sometimes contradictory goals of gambling prohibition: organized crime control, minimization of corruption, preservation of a public image of integrity for police departments, maintenance of public order, and proper use of resources.

Most of the recent official attention given to gambling has centered around the question of whether or not to legalize various games. It is clear that equal attention must be given to the role of gambling prohibitions. A continuation of the current "patchwork" policies can only mean a continuation of contradictory goals and of problems in enforcing gambling prohibitions. Clearly, States must debate and decide the goals of gambling prohibitions and must consider the available and necessary strategies for achieving those goals.

While State legislators bear most of the responsibility for the current lack of consistent gambling policies, criminal justice agencies must assume their share of the blame. Police, prosecutors, and judges alike have been ostrichlike in their failure to communicate with each other or with State legislatures concerning the problems of enforcing gambling prohibitions. The prevailing attitude seems to be that each criminal justice agency can perform its function while remaining oblivious to what occurs in the rest of the system, and that it is inappropriate to "interfere" in the legislative process.

The Commission believes the contrary to be true. **The policy decisions of criminal justice agencies that affect gambling enforcement must be made cooperatively. Further, criminal justice officials have a responsibility to make their views known to legislative bodies, and this responsibility must be met in the area of gambling policy.** The view that the criminal justice system ought to work cooper[illegible] a new one; however, practices reflecting this view remain the exception rather than the rule.

In addition to, or in the absence of, legislative policy changes, the Commission believes that changes—some legislative, some directed at agency policies and procedures—can be made that will substantially lessen the current problems of gambling enforcement.

Police

The Commission recommends that concurrent State-county-local jurisdiction in the investigation and prosecution of gambling be instituted so that State and/or county responsibility in the enforcement effort against high-level gambling offenders—particularly bookmakers and numbers operators—may be increased. Where serious and large-scale illegal gambling exists, the effort to combat it must be centralized and specialized in order to be effective. The mounting of such an effort in each local police department within a State or metropolitan area is an inefficient use of resources. Although police in smaller jurisdictions generally have a less serious gambling problem, they also have fewer resources available for gambling enforcement. Thus, an increased effort at the county or State level can be of particular use to small police departments. And although large-city departments have greater resources available, the fact that most illegal gambling, as well as violent and property crimes, are concentrated in urban areas places a strain on those resources.

An increased Federal role in gambling enforcement has benefited the efforts against interstate gambling operations. However, the fact that many, if not most, illegal gambling operations also cross intrastate jurisdictional lines has often been a hindrance to local police. The Commission believes this problem can be alleviated by an increased gambling enforcement role for State and county authorities.

Within local police departments, specialization in gambling enforcement is desirable. Responsibility spread among all patrol officers or all vice squad members weakens the gambling enforcement effort. Patrol officers, because of their uniforms and their regular duties, can make only low-level gambling arrests. Assigning vice officers multiple responsibilities decreases the likelihood that the necessary expertise and sophistication in gambling enforcement will be developed. **Therefore, for those police departments of sufficient size to support structural specialization, and where the amount and nature of illegal gambling warrants it, the Commission recommends the establishment of specialized gambling enforcement units. In departments where such a unit is not feasible, the Commission recommends that one or more officers be given the assignment of directing the gambling**

enforcement effort. The Commission recognizes that where there are specialized gambling units, there is a potential for corruption. This potential, however, is not limited to specialized units, but exists in any kind of gambling enforcement structure. In any event, police departments have a continuing responsibility to institute and maintain measures to prevent and control corruption.

Regardless of the enforcement role of State or county agencies, enforcement against nonserious gambling violators should remain the responsibility of local police. The status of enforcement aimed at low-level offenders is of particular concern to the Commission. Arrests of nonserious gambling violators have too long constituted the major portion of the gambling enforcement effort, despite the fact that such arrests cannot make any significant contribution to organized crime control. The proper—and achievable—objectives of enforcement against low-level gambling violators are minimization of corruption, preservation of a public image of integrity for police departments, maintenance of public order, and the proper use of criminal justice resources. **The Commission recommends that the major enforcement effort be directed at large-scale organized gambling, and that enforcement against less serious gambling offenses—such as social gambling in public and public activity by low-level employees of gambling organizations—be aimed at accomplishing the above objectives.**

Enforcement directed at low-level gambling employees and persons engaging in social gambling in public places must be sufficient to meet the public's expectation that obvious violations of the law will be dealt with and to discourage illegal gambling operations from open promotion. Police department policies that result in the wholesale arrest of such offenders should be avoided; inundating prosecutors and courts with these cases is a misuse of resources and has no impact on illegal gambling. **Gambling arrest quotas, official or informal, should not be established; at the same time, policies such as requiring elaborate paperwork that discourage officers from making gambling arrests should not be established.**

The Commission has considered recommending the issuance of low-collateral citations for public social gambling, thereby eliminating the waste of resources entailed in the current formal processing of these offenders without changing the nature of the penalty ultimately assessed. Use of citations for crimes that do not have plaintiffs is not a new concept; a number of States have instituted such a system for marihuana consumption offenses.

Ultimately the Commission has had to reject this approach, having been persuaded that voluntary compliance with this scheme would be extremely low, both promoting disrespect for the law and requiring substantial followup effort to enforce payment.

The major reason for continuing the criminal status of social gambling in public settings is the belief that such gambling is likely to lead to disturbances of the public order. However, the laws prohibiting public social gambling account for a major proportion of gambling arrests of blacks, making it apparent that such laws are discriminatory in effect, though not in intent. **The Commission believes that serious consideration should be given to removing statutory prohibitions against public social gambling.**

Numbers writing or other activity by low-level employees of gambling organizations occurring in public places is a somewhat different matter. Although the Commission has recommended that the major investigative responsibility be vested in a particular agency or unit, the patrolling police officer still has the responsibility to take action where he observes an open gambling violation. **Such offenses should be processed as minor criminal offenses.**

Although corruption related to gambling enforcement is a problem that has manifested itself primarily in large Eastern police departments, no department should consider itself immune. Implementation of the Commission's recommendations concerning specialization and emphasis on enforcement against high-level offenders should contribute to the prevention of corruption in gambling enforcement. The Commission believes, however, that administrators, through their attitudes and statements, play a most important role in the prevention and control of corruption. It must therefore be made clear by police chiefs and other administrators that misconduct will not be tolerated. And the tradition of "reacting" to corruption must continue to be replaced by preventive measures.

Prosecutors

The role of prosecutors in gambling enforcement is an important one. The apparent reluctance of prosecutors' offices to take gambling cases seriously has been a source of discouragement to police and a factor in the ineffectiveness of gambling enforcement.

The basis for prosecutorial attitudes is not hard to find. Gambling cases can be long and technical; in many offices, the expertise to try these cases competently is lacking. A continual flow of low-level gambling cases from police has tended to overshadow cases involving serious gambling offenders. In addition, the prosecutor, like the police officer, must be discouraged by the very light sentences given to convicted gambling offenders.

The Commission's recommendations to police agencies should insure that prosecutors receive a greater proportion of serious gambling cases and a lesser number of low-level ones. While this alone will provide some incentive to prosecutors to treat major gambling cases seriously, greater expertise and more direct involvement by prosecutorial agencies are needed as well.

Gambling, particularly at the higher levels, is a sophisticated business. To prosecute major gambling figures successfully, prosecutors must have more than courtroom know-how; they must understand how bookmaking and numbers operations work, and they must be knowledgeable about the use of electronic surveillance, grand juries, immunity, and contempt citations as tools against gamblers. The seminar or conference model is of limited usefulness in raising prosecutorial expertise in gambling cases to the [illegible] The Commission **therefore, recommends that law schools and professional associations (e.g., National Association of Attorneys General and the National Association of District Attorneys) provide comprehensive postgraduate training in the prosecution of gambling cases.**

Rigid separation of the prosecutorial and investigative functions is a hindrance to successful gambling enforcement. The likelihood of success in gambling prosecutions will be increased where prosecutors specify to police agencies the elements required for a gambling case to receive a serious prosecutorial effort, consult with and advise police during the investigative phase of major gambling cases, and assign an appropriate number of assistant prosecutors to handle gambling cases. **The Commission endorses the strike force concept, whereby police and prosecutors work cooperatively throughout the investigation and prosecution of gambling cases.** In some jurisdictions the appropriate vehicle for such cooperation will be the establishment of a strike force or a joint investigative-prosecutive unit. Other jurisdictions may wish to implement mutual police-prosecutor involvement without creating a formal structure.

Electronic Surveillance

The basis of enforcement against major gambling operations, particularly bookmaking, must be electronic surveillance. Without this tool, it appears that law enforcement efforts will never reach beyond the lower levels of operation such as the numbers writer and the bookie's telephone clerk.

This is apparent for three reasons: the heavy and unavoidable reliance of the bookmaking profession on telephones for routine transactions; the lack of witnesses who might provide independent evidence; and the fact that wiretap authority becomes essential when, because the lower level arrestees see themselves running small risk of incarceration, they will provide little information to aid in the conviction of major operatives

Gambling wiretaps have seldom been used in States outside of New Jersey and New York; thus it is difficult to provide a detailed evaluation of State use of this tool. In some instances, gambling wiretaps have resulted in the prosecution and conviction of high-level gambling figures associated with organized crime. At the same time, there is evidence that electronic surveillance has also been used to investigate low-level gambling activity.[89] Nevertheless, over half the people convicted in State gambling cases in which wiretapping is used are sentenced to incarceration.[90]

It is the Commission's view that wiretapping in gambling cases, when properly used, can provide local law enforcement agencies with a highly productive means of obtaining convictions and jail terms for high-level members of gambling operations. It is unlikely that this can be accomplished without electronic surveillance. **The Commission therefore recommends the continued use of electronic surveillance in major gambling cases. In those States having a substantial amount of illegal gambling and where electronic surveillance is not now authorized, the Commission recommends the passage of legislation authorizing the use of electronic surveillance in gambling cases.**

It is of the utmost importance that where electronic surveillance is used, the rights and privacy of citizens be safeguarded.[91] The Commission's recommendation that police and prosecutors work cooperatively on gambling cases has special application in electronic surveillance cases inasmuch as prosecutors' monitoring of wiretaps is central to insuring that they are properly conducted.

Sentencing

In almost every State in the Nation, convicted gambling offenders are subject to either moderate fines or sentences of probation. Only in New Jersey does the convicted gambler face a serious threat of significant periods of incarceration. The result is that, outside of New Jersey, the police lose one of their major tools for enforcement—the threat of a substantial penalty

The Commission is aware that there is widespread disagreement as to the seriousness of gambling violations per se. In a system where convicted muggers often receive sentences averaging no more than a few months in jail, it is difficult to exhort judges to subject all convicted gambling operators to lengthy sentences indiscriminately.

Nonetheless, it should be noted that a strong majority of the citizens surveyed by the Commission agreed that gambling violators should be jailed. In many cities, there is widespread support for the notion that organized crime poses a serious threat and that illegal gambling is an important part of its activity. Judges who decide to impose substantial sentences on major gambling violators will find strong support for their actions.

It is clear that many judges fear that imposition of heavy sentences in routine gambling cases exposes them to the risk of many protracted trials. In New Jersey, however, where judges have followed such a sentencing policy for the past decade, excessive crowding of the court calendar does not appear to be a problem. Moreover, what the Commission is recommending to police and prosecutors is likely to lead to the presentation of fewer and more serious gambling cases in court.

It appears that the information available to judges in the sentencing of gambling offenders is often inadequate. Presentence reports are not routinely requested and prosecutors often fail to present information concerning a defendant's organized crime connections. If major gambling offenders are to receive serious sentences, courts must have sufficient information at the time of sentencing to determine the appropriate penalty. **The Commission therefore recommends an increased use of presentence reports in gambling cases.** The sentence should take into account both the prior record of the offender and any evidence presented at the sentencing hearing that concerns organized crime activities. **Where it can be shown that the offender is a major gambling figure and is involved in organized crime, a significant jail term together with a substantial fine should be given. For lesser offenders, a substantial fine alone is appropriate.**

FOOTNOTES

[1] *Crime in the United States, 1974* Uniform Crime Reporting Section Federal Bureau of Investigation U.S. Department of Justice, table 29 page 181 The total of 61,900 gambling arrests is projected from 43,900 actual arrests reported by law enforcement agencies covering approximately 75 percent of the U.S. population

[2] During the same 14-year period the only areas in which arrests declined are sex offenses 14.2 percent offenses against family and children 45.1 percent drunkenness 43.4 percent vagrancy, 77.7 percent and suspicion of a crime 76.2 percent Much of the decline in drunkenness arrests is due to decriminalization of public drunkenness Much of the decline in arrests for vagrancy and suspicion has resulted from court decisions declaring unconstitutional the statutes under which many of these arrests were made

[3] It is probable that jurisdictional variations in gambling laws result in some inconsistencies in the classification of gambling arrests by game

[4] Of course, not all bookmaking and numbers/lottery arrests are of a serious nature, but generally "all other gambling" arrests tend to less serious than those in the other two categories.

[5] Prior to revision of the gambling statutes in 1973, persons in Connecticut were arrested and charged with such offenses as "betting on a horserace" and "policy playing." The latter, in fact, accounted for approximately 20 percent of gambling arrests between 1969 and 1971. In contrast, no arrests have ever been made under the District of Columbia statute that prohibits betting in a gambling pool or with a bookmaker

[6] Interpretation of these and other statistics regarding arrests by population group are rendered difficult by several characteristics of Uniform Crime Reports Arrests classified as "suburban" include those made by suburban, city, and county police agencies within metropolitan areas. Suburban arrests are also counted in city arrest totals. County arrests are those which occur in the county and outside of city limits. UCR population group definitions are different from those used by the U.S. Census Bureau, making it difficult to determine whether or not that portion of the population covered by UCR accurately reflects total U.S. population groups.

[7] This is difficult to measure precisely because the rate per 100,000 declined by just over 50 percent, while the percentage of all gambling arrests rose from 1 percent to 2 percent between 1969 and 1974 (table 3-3).

[8] In this table, it should be noted that the percent of all gambling arrests is a less reliable indicator of changes than the arrest rate, since changes in proportion may reflect the movement of the population rather than actual changes in gambling arrests. (Note: Percentages do not add up to 100 percent because of overlapping population group definitions.)

[9] Source: Prosecutor's Management Information System (PROMIS), Institute for Law and Social Research, Washington, D.C.

[10] Hereinafter cited as the IACP survey. Police departments in cities with a population of 25,000 or more were surveyed for the National Gambling Commission by the International Association of Chiefs of Police (IACP). The original sample included 587 city police departments and State law enforcement agencies. (Responses of State agencies are not used in this chapter because of the small number responding Of the city police departments 298 responded, for an overall response rate of 55 percent. The number of departments participating in the survey by city size was 250,000 and over—40 100,000 to 250,000–73, 50,000 to 100,000—65; and 25,000 to 50,000–120 Respondents, who included both chiefs of police and officers experienced in gambling enforcement, were asked about the gambling enforcement policies and practices of their departments and about their own attitudes toward gambling enforcement. The survey data were analyzed by the Survey Research Program, University of Massachusetts (Pratter, et al.). For their report, see the appendix to this Report.

[11] See "An Analysis of the Characteristics of Arrested Gamblers in the State of New Jersey" and "The Effect of Increased Enforcement of Gambling Laws" (Riedel and Thornberry) in the appendix to this Report

[12] Pennsylvania Crime Commission, *Patterns of Sentencing in Allegheny County Gambling Cases* (Harrisburg Commission., 1974, pp. 27 and 41

[13] For the purpose of the IACP questionnaire, organized crime was defined as "the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loansharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations

[14] Testimony of Robert J. diGrazia before the National Gambling Commission, Boston, Massachusetts, April 10, 1975.

[15] Testimony of Lieutenant Edward Berry, Commanding Officer, Gambling Section, and Commander Michael J. O'Donnell, Vice Control Division, Chicago Police Department, before the National Gambling Commission, Chicago, Illinois, September 24, 1975

[16] Kretz, James *Police Perception of Plaintiffless Crime Preliminary Report of a Survey of the District of Columbia Metropolitan Police Department*, Washington, D.C.: Bureau of Social Science Research, Inc., July 1973.

[17] Hereinafter cited as the FOP survey In August 1975 the National Gambling Commission surveyed delegates to the national conference of the Fraternal Order of Police (FOP) The delegates, 1 for every 50 FOP members, were selected locally by popular vote and numbered 1,803. Fifty-seven percent (1,021) of the delegates participated in the survey

[18] Hereinafter cited as the Commission's citizen survey or the national survey. See chapter 4 of this Report for a description of the survey's methodology. The survey included a series of questions about citizen attitudes toward gambling enforcement. The results of that section were analyzed by the Survey Research Program, University of Massachusetts (Mangione, et al.). For their report, see the appendix. See also the section of this chapter entitled Citizen Attitudes Toward Gambling Enforcement.

[19] See the section of this chapter entitled "Disposition and Sentencing of Gambling Offenders." See also *State and Local Gambling Enforcement Statistics* (Duncan), appendix to Report.

[20] See Jonathan Rubinstein, *Gambling Enforcement and Police Corruption;* Carol H. Duncan, *Gambling-Related Corruption;* appendixes to Report.

[21] New York Commission to Investigate Allegations of Police Corruption and the City's Anticorruption Procedures (Knapp Commission) *Commission Report* (New York: Commission, 1972); Pennsylvania Crime Commission *Report on Police Corruption and the Quality of Law Enforcement in Philadelphia* (St. Davids: Crime Commission, 1974).

[22] Pennsylvania Crime Commission, *Report on Police Corruption*, p. 168. The Crime Commission states that "evidence of payments was obtained through sworn testimony of gamblers and police officers, tape recorded conversations with gamblers and police officers, and direct observations of payoffs." Walter M. Phillips, Jr., State Special Prosecutor for Philadelphia, testifying before the National Gambling Commission on May 28, 1975, said that investigations conducted by his office during the year following the Crime Commission report had led him and his staff to agree with that commission's findings regarding gambling corruption. Police Commissioner Joseph F. O'Neill, however, strongly disagrees with the conclusions of the Crime Commission and Mr. Phillips. In response to the allegation that gambling is "open and widespread," Commissioner O'Neill said "I defy anybody in this room to go out as a stranger and find a bookmaker that will take their bet or find a numbers writer that will take a number for you." (Testimony before the National Gambling Commission Philadelphia May 29 1976.) In correspondence with the National Gambling Commission, Commissioner O'Neill called the characterization of gambling corruption as widespread and systematic "patently false and not supported by fact," and noted that the investigative efforts of outside agencies during the past 5 years have resulted in the conviction of only one police officer for gambling-related corruption. (Letter to James E. Ritchie, August 4, 1976.)

[23] See Annual Reports of Pennsylvania Crime Commission and New York State Commission of Investigation. James F Ahern, *Police in Trouble* (New York: Hawthorne Books, Inc., 1972). New York and Pennsylvania have very active State-level investigative commissions, thus examples of gambling corruption in those States are well-documented Police corruption generally also appears to affect small law enforcement agencies. Newspaper clippings collected from 30 States over a 2-month period in 1973 by the Police Foundation alleged corruption in small cities, sheriffs' offices, State police forces, and suburban police departments See Herman Goldstein, *Police Corruption* (Washington, D.C.: Police Foundation, 1975)

[24] Many writers have characterized gambling corruption as one step in progressively more serious police corruption. See, for example James F Ahern *Police in Trouble*, Thomas Barker and Julian

Roebuck, *An Empirical Typology of Police Corruption* (Springfield: Charles C Thomas Publisher, 1973); Robert H. Williams, *Vice Squad* (New York: Thomas Y. Crowell Co., 1973).

[25] Goldstein, *Police Corruption*, p. 10.

[26] See, for example, John Gardiner, *The Politics of Corruption: Organized Crime in an American City* (New York: Russell Sage Foundation, 1970).

[27] See Duncan, *Gambling-Related Corruption*, appendix to Report.

[28] In fact, one police method of extracting payments from gamblers is to seize records and then sell them back to the gamblers.

[29] A sample of Fraternal Order of Police members was surveyed by the National Gambling Commission in 1975. (See footnote 17.) More than 30 percent agreed with the statement "the general public does not care if the law against various forms of gambling is enforced." Although the Commission's national survey found significant citizen support for gambling enforcement, the priority of such enforcement is low relative to other offenses.

[30] In the FOP survey (footnote 17), a substantial majority of respondents agreed that prosecutors would rather not be bothered with gambling cases, and that judges usually give light fines and/or suspended sentences in gambling cases. A substantial majority disagreed with the statement that defendants in gambling cases are usually found guilty.

[31] The Knapp Commission (p. 7) called the "rotten apple" theory a basic obstacle to meaningful reform."

[32] Goldstein, *Police Corruption*, p. 11.

[33] For a detailed description of New York's past and present corruption control measures, see Allan N. Kornblum, *The Moral Hazards* (Lexington: D. C. Heath and Company, 1976).

[34] In 1975, the American Academy for Professional Law Enforcement sponsored a corruption conference which was attended by chiefs of police and internal affairs officers as well as academicians. A similar conference, sponsored by John Jay College of Criminal Justice, was held in 1976. Gatherings of this nature have only recently begun to be held.

[35] The Field Associates Program and "turnarounds" have caused resentment among New York police officers. Kornblum *(The Moral Hazards)* criticizes these techniques on the grounds that they work by creating fear, changing behavior and not attitudes, and therefore are not appropriate for long-term use.

[36] In Miami, Fla., for instance, most gambling arrests are made by the Dade County Sheriff's Office.

[37] Washington, D.C.'s Metropolitan Police Department maintains gambling-only units at both the headquarters and patrol district levels. The Boston Police Department's central vice squad devotes about half of its resources to gambling enforcement, both initiating investigations and responding to patrol district requests for specialized assistance.

[38] One such organization is the City-County Strike Force operated by the Essex County, N. J., Prosecutor's Office and staffed by police officers from Newark, East Orange and other Essex County jurisdictions. In the Detroit area, personnel from the Detroit Police Department, the Wayne County Sheriff's Office, the Wayne County Prosecutor's Office, the Criminal Justice Institute, and the Michigan State Police staff the Wayne County Organized Crime Task Force.

[39] Where uniformed patrol officers play a significant role in gambling enforcement, a large proportion of relatively nonserious, on-view arrests may be expected. The uniform prevents detection of all but the most obvious illegal gambling activity (e.g., crap games in an alley or doorway or a numbers writer calling in work from a public phone booth) and patrol officers cannot neglect their regular duties to pursue a gambling investigation.

[40] For instance, regulations of the New York City Police Department require that patrol officers report suspected illegal gambling activity for followup by plainclothes officers.

[41] The appendix to this Report contains gambling enforcement training data for departments responding to the IACP survey.

[42] Organized crime has been only one of several areas under study by most such commissions—for instance, the Joint Legislative Committee to Study Crime and the System of Criminal Justice in New Jersey. Legislative recommendations made by these groups, as well as by organized crime prevention councils, and subsequent legislative changes are indicative of increasing State interest in gambling and other organized crime activity. See the Gambling Enforcement Techniques and Tools section of this chapter.

[43] Much of the impetus for increasing State interest in organized crime during this period came from the 1968 Report of the Task Force on Organized Crime of the President's Commission on Law Enforcement and Administration of Justice, and from broadened Federal powers in organized crime prosecution granted by Title III of the Omnibus Crime Control Act of 1968 and by the Organized Crime Control Act of 1970.

[44] Funding by the Law Enforcement Assistance Administration to States for the prevention and control of organized crime increased from $1.4 million in fiscal year 1969 to more than $20 million in fiscal year 1971.

[45] Organized Crime Programs Division, Office of Law Enforcement Programs, Law Enforcement Assistance Administration, U.S. Department of Justice, *The Role of State Organized Crime Prevention Councils*.

[46] In 1971, for example, 174 of Rhode Island's more than 300 gambling arrests resulted from the activity of these units.

[47] As of June 1975. Some new groups may have been created since that time. See *Organized Crime Control Units* (referenced in table 3-8) for the formal names of the State organized-crime control units.

[48] The agencies included the FBI, IRS, Bureau of Alcohol, Tobacco and Firearms (ATF), neighboring police departments, county sheriff's offices, and State police.

[49] Respondents were asked to indicate the nature of their department's relationship with various other agencies on a 5-point scale, in which 1 = "no regular contracts, joint operations only as needed," and 5 = "formal, regular contracts for coordinating intelligence and investigative effort." When asked about the FBI, the average response for departments in cities with a population of 250,000 or more was 3.5 (the highest average score for any agency); for departments in cities with a population of between 25,000 and 100,000, the average response for the FBI query was 2.1.

[50] For example: prostitution, narcotics, consensual homosexual activity, and pornography.

[51] Exceptions to this occur when police observe such crimes in progress and take action, or when crimes take place but are not reported. It is clear, however, that incidents which cause a person to view himself as a "victim" are much more likely to be reported than those which do not. With the latter, police have the added task of finding violations.

[52] This is particularly true of numbers operations. (See chapter 6.)

[53] Theoretically, the number of bets taken or the number of persons engaged in illegal gambling could be counted. The point here, however, is that gambling is a continuing "service" rather than a series of separate violations.

[54] Prior to the 1968 legislation placing electronic surveillance under Federal regulation, wiretapping was authorized and used in several States.

[55] This is particularly true of bookmaking operations. Numbers operations are less dependent on telephones; however, both wiretapping and bugging can effectively be used to reach upper echelon numbers figures who cannot be reached through other investigative procedures.

[56] Of the 1,971 electronic surveillance orders approved for use in gambling investigations from 1969-1975, 77.1 percent were in New York (37.2 percent) and New Jersey (39.9 percent).

[57] Records such as those required by Title III are not maintained for pen registers. The Report of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance (pp. 17 and 18) discusses pen registers and recommends that the law regarding their use be clarified. Due to the legal uncertainty surrounding the use of pen registers, phone companies deny police the use of leased lines when these devices are installed. Thus pen registers must be monitored in the field rather than from a central police location.

[58] The genesis of some syndicated gambling legislation was the reporting of the link between such gambling and organized crime by the Kefauver Committee in the early 1950's. Following the Kefauver hearings, the American Bar Association drafted a model antigambling statute on which some of the State statutes are based. The Report of the President's Commission on Law Enforcement and Administration of Justice in 1967 and various State commission reports provided the impetus for much of the more recent legislation. For a detailed discussion of syndicated gambling statutes, see *Organized Crime Control Legislation*, The National Association of Attorneys General, January 1975.

[59] For example, the maximum penalty in Massachusetts is 15 years imprisonment and a $10,000 fine; in Illinois and Indiana, the maximum is 5 years and $5,000.

[60] New Jersey (1968), Colorado (1971), Florida (1973), Wyoming (1973), and Rhode Island (1974).

[61] One of the five States, Wyoming, does not permit the use of immunity in gambling cases.

[62] California, Kansas, Michigan, Nevada, Ohio, Washington, and Wisconsin.

[63] Immunity is also used in Texas, but is based on case law rather than statute.

[64] Immunity can be granted, in effect, in any criminal proceeding

subject to certain procedural requirements. In contrast, some other States limit the use of immunity to specific offenses.

[65] Only three of the States—New Jersey, Ohio, and Pennsylvania—authorize use immunity; other States authorize only *transactional* immunity. Where transactional immunity is granted, a witness cannot be prosecuted for any offense about which he is compelled to testify. With use immunity, however, the witness is immunized only for actual testimony and can be prosecuted on the basis of evidence from other sources.

[66] Specific immunity statutes have frequently included such offenses as bribery, conspiracy, gambling, and white collar crimes.

[67] Jonathan Rubinstein, *Gambling Enforcement and Police Corruption*, Washington, D.C.: Commission on the Review of the National Policy Toward Gambling, 1974.

[68] See Jonathan Rubinstein, *City Police*, New York: Ballantine Books, 1973, pp. 386-393. Although it is not known how widespread this practice is, there is no reason to believe that the Philadelphia Police Department is an isolated example.

[69] Each gambling surveillance (both State and Federal) for the period 1968-1973 cost an average of $7,792. It should be noted that this was the next-to-lowest average cost among a group of offenses which include narcotics, bribery, theft, counterfeiting, and extortion. (Only surveillances in extortion cases were made less costly. See Report of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, Washington, D.C.: Government Printing Office, 1976, p. 260.) Infiltration of the higher levels of gambling organizations requires undercover operations of considerable duration. Unlike narcotics undercover operations, undercover gambling operations are not very productive.

[70] The degree of effectiveness of gambling wiretaps is discussed in the Report of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, p. 142 ff.

[71] National Association of Attorneys General, *Organized Crime Control Legislation*, January 1975, p. 106.

[72] The fact that this is true of many other offenses does not diminish its importance in gambling enforcement. The concern of law enforcement personnel about the lack of serious sentencing in gambling cases has been brought to the attention of this Commission in public testimony, interviews, informal conversations, and survey responses.

[73] Several factors contribute to the limited availability of disposition and sentencing statistics for gambling. Although arrest figures are maintained by police departments, disposition data are based on the Uniform Crime Report convention, by which annual dispositions are recorded only for persons whose cases are disposed of during the same year in which they were arrested. Summary sentencing statistics are rarely maintained by police departments. Prosecutorial data, where available, consist primarily of conviction rates without complete information on the number of cases dismissed or nolle prossed, generally contain no information reflecting the reasons that cases have been dismissed or nolle prossed; often appear to use a data base other than arrests or cases referred for prosecution; and almost never contain summary sentencing statistics. Summary court data are often maintained for management purposes only, and thus contain no offense-specific information. Sentencing data, while maintained by courts on a case-by-case basis, are seldom maintained [illegible] form. The fact that, with rare exceptions, criminal justice statistics are not maintained on a systemwide basis results in inconsistent data sets. For example, 1973 statistics on gambling offenders in the District of Columbia are available from three separate sources, each of which contains a different number of offenders. The Metropolitan Police Department records approximately 1,300 persons arrested for gambling in 1973 while the Prosecutor's Management Information System records approximately 400. The Superior Court of the District of Columbia lists about 450 gambling defendants whose cases were filed in 1973 and disposed of in 1973 or 1974. Differences in counting conventions and the fact that not all persons arrested appear in Superior Court explain some, but not all, of the discrepancies.

[74] Jonathan Rubinstein, *City Police*, New York: Ballantine Books, 1973, p. 379.

[75] See footnote 14.

[76] Testimony of Stephen A. Schiller, Executive Director, Chicago Crime Commission, before the National Gambling Commission, September 23, 1975.

[77] See *The Effect of Increased Enforcement of Gambling Laws* (Riedel and Thornberry), Appendix to this Report.

[78] Fifty-one percent of the Washington cases were dismissed compared to 27 percent of the Newark cases. The conviction rate was 64 percent for the Newark cases and 46 percent for the Washington cases.

[79] A policy of severe sentences in gambling cases was approved by the New Jersey Supreme Court in *State v. Ivan* in 1960. In upholding a sentence of 1 to 2 years imprisonment and a $5,000 fine for bookmaking, the court said:

> If the crime is a calculated one and part of a widespread criminal skein, the needs of a society may dictate that the punishment more nearly fit the offense than the offender. There the sentencing judge may conclude he should give priority to punishment as a deterrence to others and as an aid to law enforcement. (162 A.2d at 853)

In 1967, the State's Chief Justice issued an administrative order aimed at achieving uniformity in gambling sentences by requiring that a single judge in each county sentence all gambling offenders.

> The Supreme Court is of the view that it is essential for the fair and effective administration of criminal justice that judges in imposing sentences adhere to the same general policy in cases which may involve syndicated crime. Unfortunately, in gambling cases efforts to achieve such uniformity, even within the same county, have not been successful when sentences have been imposed by whatever judge happens to be sitting at the time. Accordingly, the Supreme Court considers it necessary to require that the Assignment Judge in each county either personally handle all sentencing in gambling cases or designate a particular judge to impose sentence in all such cases, even though the case may have been tried or the plea taken before another judge.

[80] See *Gambling Enforcement in the District of Columbia* (Duncan), Appendix to this Report.

[81] Testimony of Judge Robert J. Columbo, Detroit Recorder's Court, June 25, 1975, and of Judge Vincent Brennan, Michigan Court of Appeals, June 24, 1975, before the National Gambling Commission, Detroit, Michigan.

[82] Pennsylvania Crime Commission, *Patterns of Sentencing in Allegheny County Gambling Cases*, Harrisburg, Pennsylvania, 1974.

[83] Testimony of former Judge Edward F. Bell, Wayne County Circuit Court, before the National Gambling Commission, Detroit, Michigan, June 24, 1975.

[84] See *Citizen Views of Gambling Enforcement* (Mangione, et al.), Appendix to this Report.

[85] Only 30 percent thought gambling violators were usually arrested, and only 32 percent thought they were likely to go to jail.

[86] The lack of association between perceptions of organized crime involvement and level of support for gambling enforcement is unexpected, and may reflect inadequate measurement of these concepts.

[87] Twice as many respondents (42 percent) said it is "very important" to enforce gambling laws. More sophisticated measures are needed to explain this inconsistency. One possibility is that public drunkenness, prostitution, and pornography impinge more on citizens' lives, making enforcement against these offenses more important than that against gambling, which may be less intrusive.

[88] Also associated with a high rating of police were a perception of police as noncorrupt and a belief that police would act on citizens' complaints about stolen goods or sports bookmaking.

[89] See Report of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, pp. 4 and 6.

[90] Op. cit., p. 271.

[91] Safeguards on the use of electronic surveillance are discussed throughout the Report of the Wiretap Commission.

CHAPTER 4. SURVEY OF AMERICAN GAMBLING ATTITUDES AND BEHAVIOR

As part of its statutory mandate to undertake a comprehensive legal and factual study of gambling in the United States, the National Gambling Commission in February 1975 asked the University of Michigan Survey Research Center to conduct a detailed survey of American gambling practices and attitudes. The survey contains a wide range of information about people who gamble—the games they prefer, their exposure to and experience with various types of gambling, their attitudes toward legalization. It also includes data on the amount of gambling that occurs both legally and illegally, and on the revenue potential of legal gambling.

The Commission has evaluated the survey findings and concluded that the survey procedure was sound and that the vast majority of the survey findings are reliable. However, as a result of a public hearing and consultation with various law enforcement and research experts, the Commission has determined that the survey results with respect to the amount of money that is wagered illegally each year cannot be considered definitive. (See "Wagering Estimates," below.)

The debate on gambling policies covers many issues, from the revenue potential of legalized gambling to the possible corrupting effect of casinos. The National Gambling Commission, having been unable to come to definite conclusions about many of these issues because of lack of reliable information, designed its survey to provide that missing information.

Among the questions which the project attempted to resolve were the following:

- Does legalization encourage or discourage illegal gambling? On the one hand, legal gambling might provide a convenient substitute for illegal gambling forms. On the other hand, it may be impossible, because of tax policies, to attract the illegal bettor away from illegal games. Legalization may make current nonbettors feel that betting is morally less reprehensible than they feel at present, thus adding to the illegal market.
- Does legalized gambling offer a major new source of government funding? There has been a tendency to overestimate the revenue potential of new forms of legal gambling. The initial estimates of government revenue to be derived from the first State lotteries and from the introduction of off-track betting in New York City proved to be far too high.
- Is taxation of gambling particularly regressive? It is commonly asserted that the poor tend to spend a larger percentage of their income on gambling than do the upper income groups. If this is true, taxation of legal gambling may be particularly unfair, since it penalizes those who can least afford to pay the taxes.
- Would legalization of gambling lead to a substantial increase in the number of compulsive gamblers—persons who gamble so heavily that it threatens their family and work relationships? It is often assumed that there are many people who currently do not gamble heavily, but who would become uncontrolled players if gambling were legal, easily accessible, and heavily promoted. On the other hand, it is also often argued that illegal gambling is now so prevalent and accessible that legalization would have little impact on a person with a strong interest in gambling.
- Is there strong sentiment in this country in favor of relaxing the current prohibitions against gambling? Does the sentiment toward legalization vary among the regions of the Nation and between the major cities and the rest of the country? In the past, few people favored the legalization of most forms of gambling. However, attitudes toward government regulation of essentially individual and elective behavior have changed. Whether this has led to a change in favor of legalization of specific forms of gambling must be determined.

SURVEY METHODOLOGY

The information and figures discussed in this Report were generated by personal interviews conducted by the Survey Research Center of the University of Michigan in the summer of 1975. The interviewers are permanent employees of the Survey Research Center; they work part-time as interviewers and are supervised by a full-time staff. The interviews were all conducted at the residences of the respondents.

Participants in the sample were selected at random from the population of the Nation as a whole, excluding members of the armed services and residents of institutions (e.g., prisons and hospitals). Since all prior evidence suggests that gambling is particularly prevalent among urban populations and males, the sample was designed so that there was a higher percentage of males and major city residents than other groups, thus insuring that as many data as possible were collected on bettors. In the calculations that follow, the fact that males and city dwellers had a higher probability of appearing in the sample was taken into account by giving those persons lower "weights" in making projections of the total volume of gambling. A total of 1,736 interviews were completed for the national sample, and the response rate was 75.5 percent. This means that nearly a fourth of the attempted interviews were not completed. The percentage of completed interviews was slightly higher than is usually obtained in national surveys; fewer than 12 percent of those approached refused to participate—a figure slightly smaller than usual, suggesting that gambling is no longer regarded as a particularly sensitive subject for discussion by most of the population.

In addition to the national sample, a special sample of 300 respondents was drawn from the three major urban areas of Nevada. These areas are Clark County (including Las Vegas), Washoe County (including Reno), and Carson City; together, they contain more than 80 percent of Nevada's population. The response rate was 70 percent for the Nevada sample. Of the nonrespondents, slightly more than half were persons who refused to cooperate, and this accounted for most of the difference between the response rates for the national and the Nevada samples. Before obtaining the interview in Nevada, the interviewer ascertained whether the respondent had lived in Nevada for less than 18 months or had moved to Nevada primarily because of the availability of legal gambling. If either of these conditions applied, the individual was not interviewed. This was done to help make the Nevada sample one that represents the effect of reasonably long exposure to legal gambling in many forms and to account for the fact that Nevada, because it has much more legal gaming than any other State, tends to attract persons with particularly strong gambling interests.

Some data were collected on almost every form of gambling that prior research had found to exist in the country. However, detailed data covering expenditure, frequency, and attitudes were collected only on a very limited number of betting types, those that were thought to be most important in formulating policy. The games covered in detail were horse betting, lotteries, casinos, bingo, sports betting, and numbers. Few data were collected on betting with friends or on greyhound racing. Since the interview was already a very long one, averaging nearly an hour and a half each, it was necessary to curtail certain areas of inquiry.

SURVEY RESULTS

Gambling Participation

It is important to look first at gambling participation patterns, not taking into account the amount bet but simply the percentage of particular groups that participated to any extent in various forms of gambling. These figures are given in table 4-1.

The first striking result is the breadth of participation. Some 61 percent participated in some form of gambling during 1974, and 68 percent reported having participated in some form during their lifetime. Since the nongamblers are heavily concentrated among those over 65, it is possible that the true figure for lifetime participation is higher because an elderly respondent may have forgotten his youthful gambling experiences.

While 61 percent participated in some form of gambling, about 13 percent only placed social bets with friends, leaving 48 percent who participated in a form of legal or illegal commercial gambling; however, that might mean only the purchase of a lottery ticket or participation in a bingo game at a local church.

Eleven percent of the population (15.5 million adults) participated in some form of illegal gambling. Those who bet illegally also bet legally; scarcely 1 percent of the illegal bettors failed to bet legally as well. On the other hand, there is a good deal of exclusivity for the various legal games. For the five major forms of legal gambling, nearly half placed a bet on only one form. Similarly, for the four illegal games, 44 percent bet only on one form.

Although betting participation is widespread, it is by no means [illegible]. There is a much higher participation in the Northeast (80 percent) than in the South (40 percent). More males bet than females (68 percent vs. 55 percent) and more whites than nonwhites (62 percent vs. 52 percent). Low income groups show lower participation rates than higher income groups (24 percent for those with household income of less than $5,000, compared to 74 percent for those over $15,000). Similarly, participation rises uniformly with education, from 41 percent for those with less than a high school education to 79 percent for those who have completed college.

Looking at illegal bettors only, the profile changes sharply. The male-female differential becomes far sharper, while the white-nonwhite difference reverses itself. Regional differences become more pronounced among illegal bettors: The Northeast's participation rate is three times that of the South. The difference between rural and city or suburban participation also increases.

NEVADA RESIDENT GAMBLING. Nevada residents, with easy access to many more forms of legal gambling than residents of other States, have a markedly different pattern of gambling participation. A higher percentage participate in commercial gambling, participate more often, and bet more money per annum. It is also significant that the regressivity of Nevada resident gambling is far greater than in the rest of the Nation. Participation rates and volume of wagering are contained in tables 4-2 and 4-3, and regressivity measures are in table 4-4.

The differences between the national and the Nevada gambling figures show up not only in the overall intensity of gambling involvement but in the differences between various social and economic groups who bet. Whereas for the national sample participation declines uniformly with age, in Nevada the age group 25-44 participates more than the 18-24 group. Similarly, gambling participation rises uniformly with education in the national sample; in Nevada, it peaks with completion of high school and declines slightly with further education.

TABLE 4-1.—REPORTED BETTING PARTICIPATION BY DEMOGRAPHIC CHARACTERISTICS

					Current bettors (1974)						
		Total sample	Never bet	Current non-bettor	Any	Legal commercial	Only legal commercial	Friends	Only friends	Illegal	Heavy illegal*
Total Sample	%	100	32	39	61	44	7	50	13	11	3
Male	%	46	25	32	68	47	5	60	16	17	5
Female	%	54	39	45	55	42	9	42	10	5	1
White	%	85	31	38	62	45	7	52	13	10	2
Nonwhite	%	13	39	48	52	38	8	38	8	17	5
18-24 years	%	14	25	27	73	48	6	65	20	15	3.1
25-44 years	%	43	26	31	69	52	6	59	13	14	3.1
45-64 years	%	31	33	40	60	42	10	44	12	8	2.8
65— years	%	12	65	77	23	17	5	15	5	2	*
Employed	%	60	23	29	71	50	7	61	16	15	4
Unemployed	%	4	25	31	69	54	2	61	8	15	4
Under $5,000	%	13	66	76	24	17	3	18	4	3	*
$5,000-$10,000	%	18	42	49	51	39	6	43	10	8	2.4
$10.000-$15,000	%	22	24	31	69	46	10	51	19	10	2.6
$15.000+	%	41	21	26	74	54	7	63	15	15	3.3
Married	%	75	31	38	62	44	7	51	14	11	2.5
Divorced/Separated	%	7	23	29	71	57	5	55	7	16	6.6
Widowed	%	7	72	82	18	16	6	11	2	2	*
Never Married	%	12	27	30	70	53	9	59	14	15	2.6
Did not graduate H.S.	%	32	49	59	41	30	7	30	7	8	2
High school graduate	%	31	29	34	66	48	9	53	14	12	3.5
Some college	%	21	22	28	72	52	4	64	16	13	3.7
College graduate	%	16	18	21	79	56	8	67	18	11	1.3
Catholic	%	27	17	20	80	65	11	63	14	16	4
Protestant	%	66	38	46	54	36	5	45	11	9	2.4
Presbyterian, Lutheran Congregational, Episcopal	%	16	20	26	74	51	7	64	21	10	2.7
Bible-oriented sects	%	11	57	67	33	19	6	25	9	8	2.2
Methodist	%	13	30	37	63	41	3	53	15	11	2.2
Baptist	%	19	47	55	45	30	4	37	11	10	2.8
Jewish	%	2	23	23	77	66	7	66	8	19	2.1
Atheist, no preference	%	4	44	60	40	33	3	36	5	5	.2
West European	%	40	23	30	70	49	7	59	17	11	2.4
East European	%	9	18	19	81	65	9	68	13	14	2.0
British	%	30	29	38	62	44	7	52	14	8	.6
Irish	%	22	26	35	65	47	7	56	14	10	2.4
Spanish-speaking	%	4	33	39	61	51	6	47	3	19	5.6
African	%	5	37	46	54	42	[illegible]	41	9	13	5.0
Italian	%	6	20	23	77	64	15	61	7	18	7.8
All others	%	21	51	59	41	29	7	31	8	9	2.3

TABLE 4-1.—REPORTED BETTING PARTICIPATION BY DEMOGRAPHIC CHARACTERISTICS *continued*

					Current bettors (1974)						
		Total sample	Never bet	Current non-bettor	Any	Legal commercial	Only legal commercial	Friends	Only friends	Illegal	Heavy illegal[a]
Northeast	%	23	17	20	80	67	8	67	8	19	6
North Central	%	28	28	34	66	48	9	48	15	12	3
South	%	31	52	60	40	23	5	31	12	6	1
West	%	18	24	35	65	47	7	56	17	7	*
City 100,000 or more	%	27	28	34	66	46	7	54	14	15	5
Suburb of city over 500,000	%	23	23	28	72	56	7	59	12	14	3
Small cities, rural	%	51	39	47	53	38	7	43	12	7	1
25 or less miles from 25 largest cities	%	33	28	33	67	49	8	53	12	15	4
26-49 miles from 25 largest cities	%	12	20	24	76	57	2	69	16	15	4
50 miles or more from 25 largest cities	%	55	38	46	54	39	7	44	12	8	2

*Less than one-half of 1 percent.

[a] Respondents wagering more than $200 a year on illegal gambling

NOTE: Percentages read across the table.

TABLE 4-2.—1974 GAMBLING BEHAVIOR OF UNITED STATES AS A WHOLE COMPARED TO NEVADA RESIDENTS*

	United States		Nevada	
Game	Participation (% of adult pop.)	Average annual wager per bettor	Participation (% of adult pop.)	Average annual wager per bettor
Legal				
Horses at track	13.9	$ 448	3.2	$103
Off-track betting parlors	13.5[a]	1,118	6.0	179
Slot machines	9.4	448	72.1	377
Keno			54.2	N/A
Casino games			27.3	846
Bingo	18.7	74	24.1	104
Lottery	47.8[b]	25	——	——
Sports betting parlors	——	——	8.0	158
Total legal commercial	44.0[c]	273	76.0[d]	665[d]
Illegal				
Sports books	1.9	623	2.9	275
Horse books	2.4	416	1.9	131
Numbers	3.0	273	0.0	——
Sports cards	3.0	44	3.0[e]	36[e]
Total illegal	11.2	318	4.3	257

*All estimates are subject to sampling variation

[a] New York only

[b] States with legal lotteries only

[c] Includes dograces, jai alai, and other legal forms of gambling not shown above

[d] Includes sports cards.

[e] Sports cards are legal in Nevada

TABLE 4-3.—COMPARISON OF REPORTED BETTING PARTICIPATION BY DEMOGRAPHIC CHARACTERISTICS, NEVADA AND NATIONAL SAMPLE

		Current Bettors	
		Nevada	National
Total Sample	%	78	61
Male	%	87	68
Female	%	70	55
White	%	79	62
Nonwhite	%	66	52
18-24 years	%	75	73
25-44 years	%	86	69
45-64 years	%	80	60
65+ years	%	41	23
Employed	%	87	71
Unemployed	%	76	69
Under $5,000	%	63	24
$5,000-$10,000	%	74	51
$10,000-$15,000	%	78	69
$15,000+	%	85	74
Married	%	80	62
Divorced/separated	%	78	71
Widowed	%	54	18
Never married	%	78	70
Did not graduate high school	%	71	41
High school graduate	%	82	66
Some college	%	80	72
College graduate	%	78	79
Catholic	%	83	80
Protestant	%	77	54
Presbyterian, Lutheran, Congregational, Episcopal	%	92	74
Bible-oriented sects	%	82	33
Methodist	%	72	63
Baptist	%	77	45
Jewish	%	70	77
Atheist, no preference	%	55	40
West European	%	79	70
East European	%	67	81
British	%	79	62
Irish	%	79	65
Spanish-speaking	%	72	61
African	%	46	54
Italian	%	92	77
All others	%	80	41

As might be expected, the most marked differences occurred in casino gaming. More than 72 percent of Nevada residents played the slot machines in 1974; no comparable participation figure is available for the national sample, since most non-Nevada residents play slot machines only while at a casino, where they also play other games. For the Nevada resident, slot machines are readily available in many stores and public places outside of casinos. Twenty-seven percent went to a casino; this compares with 9.4 percent for the national sample. More striking are the figures on the amount wagered on these two forms of gambling by Nevadans: $377 per player on slot machines inside and outside of casinos and $846 for casino and table games. For the national sample, the average bet for both slot machines and casinos and table games totaled only $448 per player (see table 4-5).

Two other games attracted substantial participation: keno and bingo. Both are offered at Nevada casinos. It is interesting to note that bingo retains its appeal even with other casino games available. The Nevada participation rate of 24 percent for bingo is higher than the 21 percent for other States where it is legal and where it is often the only legal form of gambling available. Keno is not played outside Nevada.

Two other forms of gambling are legally available only in Nevada—horse betting parlors and sports betting parlors. Sports betting parlors attract a higher participation rate than does illegal bookie betting on sports in the rest of the Nation, but the per-bettor handle is a great deal lower, $158 compared to $623. This suggests that the legal parlors may attract new, low-volume bettors. The same holds for off-track betting parlors, but it should also be noted that there are no significant horseracing or dogracing operations in Nevada.

Illegal betting in Nevada is less common and less intense than in the rest of the Nation. Only 4.3 percent participated in any illegal form, compared to 11 percent outside of Nevada, and the average amount wagered per illegal bettor in Nevada was substantially lower for both horse and sports-book betting. It is understandable that

TABLE 4-4.—REGRESSIVITY OR PROGRESSIVITY BY TYPES OF GAMBLING, UNITED STATES AND NEVADA ONLY

Game	Index of progressivity (P) or regressivity (R) U S as a whole	Nevada residents only
Numbers	.44 (R)	—
Sports cards	.40 (R)	**
Lottery	.31 (R)	—
Bingo	.30 (R)	.58 (R)
Horse books	.27 (R)	**
Horse tracks	.17 (R)	**
Off-track horse betting parlors	.07 (R)*	.56 (R)
Slot machines	26 (P)	.41 (R)
Keno		N/A
Casino tables		.46 (R)
Legal sports betting parlors	—	.36 (R)
Illegal sports books	.29 (P)	**
All types combined	17 (R)	.42 (R)
For comparison: all sales and excise taxes	.15 (R)	N/A
Federal income tax	.15 (P)	N/A

*New York OTB only.
**Sample too small to permit reliable estimate.

numbers was not played at all in the State in 1974, given Nevada's relatively homogeneous population and lack of large urban areas.

All forms of gambling are more regressive in Nevada than elsewhere (table 4-4). In fact, bingo in Nevada is slightly more regressive than any other form of gambling, either in Nevada or in the rest of the Nation. Only numbers and sports-card betting, outside of Nevada, are more regressive than the least regressive of Nevada's games: legal sports betting parlors.

Only 2 percent of Nevadans bet only with friends during 1974, compared with 19 percent outside of Nevada. It appears that widespread legal gambling facilities substitute not only for illegal gambling but also for social gambling. Further evidence of this can be drawn from figures on lifetime participation in illegal gambling. In the national sample this percentage rises from 16 percent in the youngest group to 29 percent in the oldest group. In Nevada, the figure for the 18-24 age group is 2 percent but for those over 65, it is 24 percent. This suggests that there are many people in Nevada who used to bet illegally but now, given the availability of legal games, do not (table 4-6).

TABLE 4-5.—GAMBLING AND FAMILY INCOME, BY TYPE OF GAME

	Family income						
	Under $5,000	$5,000 10,000	$10,000 15,000	$15,000 20,000	$20,000 30,000	$30,000 and over	Total respondents[a]
Horses-track (States with legal tracks only)							
Percent who bet	8.7	15.5	11.2	17.2	20.9	20.3	15.9
Average annual bet per bettor	$185.5	$293.51	$395.75	$577.48	$294.20	$435.87	$512.70
Average annual bet per capita	15.85	45.49	44.32	99.33	61.49	88.48	78.44
Average annual takeout per capita (takeout rate, 16.6%)	2.63	7.55	7.36	16.49	10.21	14.69	13.02
Horses-OTB (New York only)							
Percent who bet	9.9		14.8	21.2	27.3		13.5
Average annual bet per bettor	$1,594.97		$353.75	$743.37	$1,412.07		$1,118.35
Average annual bet per capita	157.90		52.36	157.59	358.48		150.98
Average annual takeout per capita (takeout rate, 21%)	33.16		11.00	33.09	80.95		31.71
Legal casinos							
Percent who bet	4.12	8.06	6.21	12.33	12.31	20.62	9.45
Average annual bet per bettor	$586.57	$193.17	$124.33	$336.57	$261.70	$1,293.93	$448.26
Average annual bet per capita	24.58	15.57	7.72	41.50	31.74	266.81	42.36
Average annual takeout per capita	3.69	2.34	1.16	6.23	4.76	40.02	6.35
Bingo							
Percent who bet	8.68	18.84	20.27	21.56	22.05	17.17	18.73
Average annual bet per bettor	$141.66	$25.59	$113.91	$54.90	$64.70	$97.34	$74.11
Average annual bet per capita	12.30	4.80	23.09	11.84	14.27	16.71	12.97
Average annual takeout per capita (takeout rate, 33%)	4.06	1.58	7.62	3.91	4.71	5.51	4.28
Lotteries (States with lotteries only)							
Percent who bet	30.6	45.5	52.5	60.0	57.4	50.6	47.8
Average annual bet per bettor	$24.43	$37.16	$32.07	$18.59	$24.79	$17.24	$25.26
Average annual bet per capita	7.48	16.91	16.84	11.15	14.23	8.72	12.71
Average annual takeout per capita (takeout rate, 55%)	4.12	9.30	9.26	6.13	7.83	4.80	6.99
Sports books							
Percent who bet	.79		1.21		3.00		1.91
Average annual bet per bettor	$127.76		$224.95		$891.89		$623.03
Average annual bet per capita	1.01		2.72		26.76		7.38
Average annual takeout per capita (takeout rate, 4.5%)	.05		.12		1.20		.54

TABLE 4-5 –GAMBLING AND FAMILY INCOME, BY TYPE OF GAME continued

	Family income						
	Under $5,000	$5 000 10 000	$10,000 15 000	$15,000 20,000	$20,000 30,000	$30,000 and over	Total respondents[a]
Horse books							
Percent who bet	0.58	1.92	2.72	3.11	2.24	3.51	2.37
Average annual bet per bettor	$38.87	$932.29	$335.16	$159.70	$578.35	$606.64	$416.53
Average annual bet per capita	2.25	17.90	9.12	4.97	12.96	21.29	9.87
Average annual takeout per capita (takeout rate, 16.6%)	.37	2.97	1.51	.83	2.15	3.53	1.64
Numbers							
Percent who bet	1.20	3.56	2.71	3.39	2.87	4.84	3.01
Average annual bet per bettor	$38.94	$393 26	$436.11	$198.14	$171.71	$111.34	$273.19
Average annual bet per capita	.47	14.00	11.82	6.72	4.93	5.39	8.22
Average annual takeout per capita (takeout rate, 54%)	.25	7.56	6.38	3.63	2.66	2.91	4.44
Sports cards							
Percent who bet	1.13		2.93	4 90	5.66	4.03	3.0
Average annual bet per bettor	$48.56		$111.56	$28.61	$10.91	$30.12	$43.70
Average annual bet per capita	.55		3.27	1.40	.62	1.21	1.32
Average annual takeout per capita	.33		1.96	.84	.37	.73	.83
Total Games[b]							
Average bet per capita	$63.46	$116.23	$133.99	$203.69	$167.00	$435.35	$177.86
Average takeout per capita	15.51	31.69	35.82	39.26	34.78	73.39	38.03
Effective takeout rate (percent)	24.5	27.3	26.9	19.3	20.9	16.9	21.5

[a] Figures by income bracket include only individuals for whom both income and participation data are available. Figures for total respondents include individuals for whom we have participation data, regardless of whether or not income data are available.

[b] Total games are sums of per capita items by type of game. Since figures for betting at a track are limited to residents of States with legal tracks and betting on lotteries is limited to residents of States with legal lotteries, the totals do not match corresponding observed totals for the entire United States.

TABLE 4-6.—LIFETIME AND 1974 DISTRIBUTIONS OF BETTORS AMONG BETTING CHANNELS BY AGE

	Total		18-24		24-44		45-64		65+	
	Life	74	Life	74	Life	74	Life	74	Life	74
	%	%	%	%	%	%	%	%	%	%
Nevada										
Illegal	15	6	2	0	15	10	19	2	24	0
Legal commercial	85	92	98	96	85	88	80	97	79	100
Friends only	0	2	0	4	0	2	1	1	0	0
National										
Illegal	24	13	16	13	23	15	29	11	29	4
Legal commercial	71	68	71	63	73	67	68	71	66	77
Friends only	5	19	13	23	4	18	3	18	5	19
Nevada illegal*	.40		0		.67		.11		0	
National illegal*	.54		.81		.65		.38		.14	

*These figures represent bettor loyalty to illegal gambling, and describe the likelihood of an "ever bettor" doing so in 1974 for these age groups. The .81 figure for national illegal betting in the 18-24 year old bracket, means essentially that 81 percent of those who have bet illegally did so in 1974 for the Nation, but none of the Nevadans in this age bracket have bet illegally

Wagering Estimates

On the basis of the reported level of legal gambling by each respondent in the sample, the survey estimated the total volume of money legally wagered on 10 legal games—$17.3 billion. For each legal game, the total volume estimated by the survey was compared with available official estimates. The survey estimated the volume of illegal wagering at $5 billion, with a possible error factor of 2, which would place the upper limit of illegal expenditures at $10 billion. (The figures are shown in table 4-7.)

The survey's estimated legal handle falls within 0.1 percent of the total reported officially by the operators of legal games, a statistical concurrence that would seem to validate the survey's accuracy on this score. The accuracy of the figures on the illegal handle is less certain.

The U.S. Department of Justice, in May 1974, estimated the illegal handle to be between $29 billion and $39 billion. Two years later, Department officials acknowledged to the Commission that it was impossible for the Department to provide an estimate with any degree of confidence; they could only report accurately on the volume of gambling they had uncovered through actual surveillance and raids. It should be noted that during 1971 and 1972—the period of the Department's most intensive antigambling enforcement—it had acted against illegal operations with a total handle of only $750 million

Although the FBI has not provided the Commission with a specific estimate of the total illegal handle, it has released various figures—such as $750 million in payoffs by gambling operations to law enforcement officials—that suggest a total volume of illegal gambling higher than the Commission's adjusted survey estimate.

The Bureau of Alcohol, Tobacco and Firearms, an agency of the U.S. Treasury with responsibility for the administration of the Federal wagering excise and occupational stamp taxes, has given estimates as high as $67 billion. However, agency officials told the Commission that this figure was not original but had been extrapolated from estimates made by other agencies.

In 1967, the President's Commission on Law Enforcement and Administration of Justice estimated a yearly illegal handle of $20 billion but warned that the "Commission cannot judge the accuracy of these figures."

How is the apparent discrepancy between the accuracy of the estimates of legal and illegal handles to be accounted for, since the Michigan survey's polling techniques were identical in each case? Even granting a margin of error in the reporting of legal wagering by the survey's respondents—or of underreporting or duplicity in declarations by legal gambling operators—the estimate of legal gambling handle seems to be substantially correct, and the Commission accepts that finding.

It cannot endorse the survey's illegal estimate, however, for the following reasons—which are unrelated to its disparity from the other estimates cited above.

- Unlike a low-stakes legal bettor, the heavy illegal bettor who surfaces as a potential respondent in a survey of this nature has little incentive to tell the truth. He might very well question whether the interrogator is truly a representative of a survey organization or might be an undercover agent of the IRS or FBI. To him, candor may be deemed inadvisable.
- While the overall national response rate to the survey was approximately 75 percent, in downtown urban areas the response rate was only 51 percent. People who live in the Nation's deteriorating inner cities may be more fearful and distrustful of strangers than the population as a whole, and less willing to talk about an activity that they know or suspect to be illegal.
- Bettors, like people engaged in high-volume stock market trading, keep track of the amount they won or lost, not the total transactions. For example, a heavy bettor who has wagered $1,000 on each of five football games on a given weekend will focus on the net outcome—i.e., that he has won (or lost) $1,000 or $2,000—rather than on his aggregate transactions for the weekend, $5,000.
- In its research, interviews, and testimony—some of it admittedly hearsay—the Commission has been told about so many bettors in the $100,000-and-over annual bracket that it is convinced that the volume generated by these people is not reflected in the survey estimates. (The heaviest bettor in the survey admitted to an annual wager of only $30,000.) The reason, the Commission feels, lies not with the survey techniques, but in the understandable reticence of some of the respondents, as previously discussed.

The Commission believes that neither this nor any other survey is able to measure accurately the specific dollar level of an illegal activity, and it cannot emphasize too strongly that the survey's estimates of the dollar volume of illegal gambling, including the estimates for individual games, should not be considered as viable data, especially for purposes of formulating gambling policy. They are a point of reference only, one of many measuring devices that are useful in discussing a complex question. Too often,

TABLE 4-7.—TAKEOUT AND HANDLE FOR U.S. COMMERCIAL GAMBLING, 1974

	Takeout rate %	Total takeout*	Estimate derived from: Sample	Estimate derived from: Published data	Survey % over/under
Legal					
Horses at track	16.0	$1,247,000,000	$ 7,930,000,000	$ 7,512,000,000	+5.6
OTB, New York	21.0	171,000,000	967,000,000	786,000,000	+22.9
Legal Casinos	15.0	1,004,000,000	6,076,000,000	6,693,000,000	−9.2
Bingo	33.0	551,000,000	1,735,000,000	1,672,000,000	+3.8
Lotteries	55.0	374,000,000	639,000,000	681,000,000	−6.2
Total Legal	19.3	$3,347,000,000	$17,347,000,000	$17,345,000,000	−0.0
Illegal					
Sports Books	4.5	105,000,000	2,341,000,000		
Horse Books	16.6	227,000,000	1,368,000,000		
Numbers	54.0	575,000,000	1,064,000,000		
Sports Cards	60.0	115,000,000	191,000,000		
Casino Games	15.0	19,000,000	110,000,000		
Total Illegal	20.5	$1,039,000,000	$ 5,074,000,000		
Total Legal and Illegal	19.6	$4,385,000,000	$22,421,000,000		

*Based on handle derived from the survey such estimates come to be taken for fact merely through repetition. If the survey's estimates of a $5 billion illegal handle are taken at face value, and the Justice Department's estimates of $29 billion-$39 billion are refuted, it might be concluded that the incidence of illegal gambling in the United States is only one-sixth to one-eighth of what it is commonly thought to be, and a significant reduction in enforcement activity would follow. Nothing could be further from the Commission's intent.

In every other respect, however, the Commission has full confidence in the findings of the University of Michigan survey. These include the findings on gambling participation generally as well as specific activities and games, attitudes toward legalization and prohibition, patterns of behavior, sociological profiles, and demographic analyses. Accordingly, in subsequent discussion throughout this Report, all survey-generated information with the exception of dollar estimates of illegal activity will be treated as accurate and factual.

Economic Aspects of Gambling

The figures referred to so far are estimates of the handle and not of the "expenditure" on each game. Most of the money wagered is returned to the players. The percentage retained by the operators, either to cover expenses or to pay taxes, is referred to as the takeout rate. In order to calculate the expenditure on each game it is necessary to multiply the total handle by the takeout rate. Of $7.5 billion bet at the track, nearly 83 percent was returned to the players, so that the actual expenditure on betting at the track was only $1.25 billion. Obviously, not every player at the track gets back an equivalent amount of his or her wagers, but on the average, over a long period of betting, the player can be reasonably assured of getting approximately 83 percent back. This assumption was used in calculating the expenditures for each game for each income group (table 4-8).

One of the major findings of the survey was that expenditures on gambling were regressive—i.e., that lower income groups spent a greater percentage of their income on gambling than did upper income groups. This was true for gambling expenditures taken as a whole as well as for most individual games. The result of this is that taxes on legal gambling appear to be quite regressive—about as regressive, in fact, as sales taxes generally (see table 4-4).

Among all income classes, the average annual amount bet on gambling rises steadily from $63.46 for the lowest income group (household income under $5,000) to $435.35 for the highest income group (household income over $30,000). However, the effective takeout rate tends to decline across income groups, and the amount spent on gambling declines as a percentage of income from 0.62 percent for those under $5,000 to 0.18 percent for those over $30,000 (tables 4-5 and 4-8). The decline in the average takeout rate for upper income group gambling reflects the fact that they bet more of their total gambling dollars on casino and sports betting, which have lower takeout rates, than on numbers and lotteries, on which the lower income groups bet more heavily.

ESTIMATES OF POTENTIAL REVENUE. The revenue available from legalized gambling depends on three related factors: potential volume of play, operating costs, and tax rates. The relationship between the three is based on the effect of increasing the takeout rate (the sum of operating costs and the tax rate) for a given game. The higher the takeout rate, the lower the demand for the game.

In the following calculations an effort was made only to estimate the maximum conceivable revenue to be obtained from legalization of individual games. The final total, $9 billion, is obtained by adding the maximums for each of the games. (Only $1.2 billion is currently being realized.) In interpreting these figures for policy purposes, two factors should be noted: (1) These calculations ignore the interaction between the demand for different legal games. For example, the addition of a legal numbers game will almost certainly diminish the volume of lottery play. (2) On the other hand, legalization of one game tends to increase the volume of all forms of gambling generally. It seems likely that the first effect is the more important of the two, so that the $9 billion total survey estimate may be somewhat high. Because proponents of legalization often tend to provide very high overestimates in the policy debates, the Commission's figures are more realistic than theirs, even given the caveat noted in (1) above.

Table 4-9 provides for each game the estimated potential volume of play if it were legalized in every State, the tax rate that would yield the highest net revenue to the governments, and an estimate of that revenue. In some cases the optimal tax rate was estimated on the basis of available evidence concerning the sensitivity of demand to variations in takeout rate, given the costs of operation. That was the case for betting at the track, off-track betting, and sports parlors. For the other games, it was either assumed that governments would continue to tax them at the same rate as currently (lotteries) or that the legal game would have to pay out the same percentage as the illegal game (numbers). In these latter two groups of games it was not possible to find data that would permit calculation of the optimal tax rate.

Although table 4-9 indicates that while casino gaming, excluding slot machines, might generate the second highest handle of all games, it is not seen as a large source of government revenue. This reflects the assumption that other States would follow Nevada and place only a light tax, 5 percent, on the gross winnings of the casino. In most debates concerning the revenue potential of casino gaming, proponents stress the indirect tax benefits that arise from greater tourist traffic—such as higher occupancy rates in hotels and expenditures on other leisure-time activities such as restaurants and nightclubs. The calculations concerning slot machines also show this pattern very high handle projections—over $40 billion—but low net revenues to government. At the other extreme is the estimate for numbers, where relatively modest volume yields high revenue. Numbers players, like lottery participants, are accustomed to high takeout rates. The illegal game tends to require a lot of manpower and hence is costly to operate. A legal game, as has been shown in New Jersey, Rhode Island, and Massachusetts, can, through use of machines, operate a great deal more cheaply.

Gambling Beliefs and Behavior

Gamblers are more aware of the existence of gambling facilities than are nongamblers; they are also more knowledgeable about gambling laws, have more positive views on the desirability of legal gambling, and hold less negative views on the consequences of legalization. Furthermore, gamblers think of gambling as more exciting than nongamblers do, have greater faith in the integrity

TABLE 4-8.—REGRESSIVITY BY TYPE OF GAME

	Under $5,000 %	$5,000-10,000 %	$10,000-15,000 %	$15,000-20,000 %	$20,000-30,000 %	$30,000 and over %	Total %
Horses-track							
Percent of income:							
Bet	0.63	0.61	0.35	0.57	0.25	0.22	0.50
Taken-out	0.105	0.101	0.059	0.094	0.041	0.037	0.083
Horses-OTB							
Percent of income:							
Bet	3.03		0.41	0.87	1.15		1.15
Taken-out	0.636		0.085	0.182	0.241		0.241
Legal casinos							
Percent of income:							
Bet	0.98	0.20	0.06	0.24	0.13	0.67	0.27
Taken-out	0.148	0.031	0.012	0.036	0.019	0.100	0.040
Bingo							
Percent of income:							
Bet	0.49	0.64	0.18	0.07	0.06	0.04	0.08
Taken-out	0.162	0.002	0.061	0.022	0.019	0.014	0.027
Lotteries							
Percent of income:							
Bet	0.30	0.23	0.13	0.06	0.06	0.02	0.08
Taken-out	0.16	0.12	0.07	0.04	0.03	0.01	0.05
Sports books							
Percent of income:							
Bet	0.02		0.02		0.11		0.08
Taken-out	0.001		0.001		0.005		0.003
Horse books							
Percent of income:							
Bet	0.09	0.24	0.07	0.03	0.05	0.05	0.06
Taken-out	0.015	0.040	0.012	0.005	0.009	0.008	0.010
Numbers							
Percent of income:							
Bet	0.02	0.19	0.09	0.04	0.02	0.01	0.05
Taken-out	0.010	0.101	0.051	0.021	0.011	0.007	0.028
Sports cards							
Percent of income:							
Bet	0.011		0.04	0.01	0.002	0.003	0.009
Taken-out	0.007		0.024	0.006	0.001	0.002	0.005
Total							
Percent of income:							
Bet	2.53	1.55	1.07	1.16	0.67	1.09	1.15
Taken-out	0.62	0.42	0.29	0.23	0.14	0.18	0.25

TABLE 4-9 —REVENUE POTENTIAL OF LEGALIZED GAMBLING

	Participation rate %	Assumption) Average annual handle Per bettor	Per capita	Net State revenue[a] per capita	Potential U.S. total Handle	Revenue
Lottery	50.3	$ 23.73	$ 11.93	$ 5.37	$1,719,000	$774,000
Numbers	50.0	100.00	50.00	22.50	7,206,000	3,243,000
Sports Betting Parlors	8.0	170.00	13.60	0.98	1,960,000	331,000
Sports Cards	10.0	50.00	5.00	2.50	721,000	360,000
Off-track Horse Betting	13.5	417.00	56.30	5.63	8,114,000	811,000
Horse Tracks	25.8	841.00	217.00	16.28	31,276,000	2,346,000
Slot Machines	72.1	377.00	279.00	2.72	40,212,000	392,000
Table Games	27.3	846.00	231.00	1.73	33,294,000	249,000
Total, 8 Games	N/A	N/A	864.00	57.71	124,527,000[b]	8,288,000[b]

[a] Allowance has been made for operating costs of State-operated games.
[b] Detail does not add to total due to rounding

of gambling operations, were exposed to more gambling as children and as adults, make more realistic judgments about the amount of skill and/or luck involved in each game, grew up learning less didactic religious teachings about gambling, and currently adhere to less moralistic ideas about gambling.

Differences between gamblers and nongamblers in these respects are clear. Bettors on specific games differ from gamblers in general in much the same way: They hold more positive views toward their game, were exposed to that game earlier and more often in their lives, and think it more exciting and more honestly run than other forms of gambling.

The relationships between knowledge, attitudes, and behavior in gambling are interactive. Exposure to gambling facilities and early social influences affect later knowledge and attitudes as well as shaping gambling behavior. Gambling behavior in turn influences attitudes and knowledge. And levels of legalization influence—and perhaps in turn are influenced by—all these.

The moral upbringing of nongamblers differs from that of gamblers. More than half the nongamblers were taught as children that gambling is sinful, compared to 35 percent of the gamblers. Nongamblers were not only less exposed to gambling behavior in childhood but also began life with more negative attitudes toward gambling. As adults, they continued to have fewer contacts with gambling and continued to subscribe to their early beliefs about it more than did those who grew up with the same beliefs but were exposed to gambling. For gamblers, their exposure to the activity apparently neutralized the moral teachings.

Of the major American religious bodies, only one—the Baptist Church—teaches that gambling is inherently sinful. The Methodist Church, while not teaching that gambling is sinful, nevertheless strongly opposes all forms of commercial gambling. Other religious bodies teach that gambling is wrong only in excess or do not take a position on gambling at all. The survey did show, however, that the belief that gambling is sinful is not confined to those reared within the Baptist community, and that some exposed to this view became gamblers despite their training.

Although moral considerations operate as an important constraint on gambling behavior, they are not so significant an influence as mere disinterest in playing (see table 4-10). Although 48 percent of nongamblers said they declined to play because they thought gambling "wrong" or "sinful," even more nongambling respondents said they were just "not interested," had "other things to do," or "don't know about it." Monetary concerns were also mentioned more often than moral concerns.

Nongamblers are more involved than gamblers in church activities and more of them view gambling as having negative effects on family and community life. The reasons they give for not gambling demonstrate this concern in such terms as: It is "bad for the family." Their social horizons, too, appear more limited than those of gamblers, and their life experiences less broad. Their leisure-time activities tend to be centered around the home, family, and church more than do those of gamblers (see table 4-11).

Military duty, particularly service overseas, also affects gambling. One-and-a-half times more gamblers served in the armed forces than nongamblers. To what extent military service influences gambling, however, has not yet been fully determined because of variables involving the age and sex of gamblers and military personnel.

Excitement

Excitement plays a large role in motivating people to gamble. When people were asked why they bet on certain games, "excitement" or "to have a good time" were most frequently given as reasons.

Not all games are considered equally exciting, however, and some games are viewed as not exciting at all. Respondents were asked to evaluate the excitement level of 13 different gambling activities on an 8-point scale, and

TABLE 4-10.—MAJOR REASONS WHY NONGAMBLERS REPORT THEY DON'T GAMBLE

	Nongamblers		
	Total reasons %	First reasons %	Probed reasons %
Specific Reasons			
Not interested	44	27	17
It's sinful	40	24	16
Other things to do	38	35	3
Waste of money	37	24	13
It's wrong	34	24	10
Don't know about it	31	27	4
Don't want to lose money	26	16	5
Don't think about it	26	24	2
Don't have the money	25	18	7
Odds against you	23	13	6
Don't disobey the law	21	19	2
Waste of time or effort	16	12	4
It's bad for people	9	*	9
Wasn't raised that way	9	*	9
Don't believe in it	9	1	8
Bad for family	8	1	7
Might get arrested	7	6	1
Not lucky	6	5	1
People get nasty	6	5	1
Causes corruption	5	*	5
It's shoddy	3	2	1
Not available	2	2	*
Too risky	2	0	2
Don't trust the game	1	*	1
Net Reasons			
Activity interest	83	68	15
Money	64	54	10
Moral	48	40	8
Legal	25	22	3
Social	7	6	1
Availability	2	0	2

*Less than one-half of 1 percent.
NOTE: Respondents chose 1, 2, or 3 reasons from a list of 18 reasons.

the results varied by game and by the respondents' gambling behavior (table 4-12). There was general agreement on which games were the more exciting, and—as with the many other dimensions of gambling discussed up to now—bettors rated gambling as more exciting overall than nonbettors did, while bettors on each game saw that game as more exciting than did nonplayers of that game.

The excitement attributed to any given game appears to be related more to the setting in which the activity takes place than the activity itself. So, too, does the degree of involvement each activity generates, rather than the odds or probability of winning. Social gambling and public commercial forms are considered more exciting than games involving less face-to-face interaction.

By far the most exciting game for bettors and nonbettors alike is horseracing at the track. Numbers is considered the least exciting form by all groups, including numbers players. Out of a possible 8 points, horserace bettors gave on-track horse betting an average rating of 6.59, far more exciting than any other kind. Nongamblers agree.

For horseracing to be exciting, it must be witnessed at the track. Off-track betting was rated as only slightly more exciting than sports cards, and less exciting than dice or lotteries. Off-track bettors rated it 4.35, similar to the rating the lottery receives from lottery players. The sharpest disagreements between players and nonplayers of specific games occur with sports cards and dogracing. Sports card bettors rate it 5.44, against the 1.96 it receives from the total sample. Dogracing receives a 5.50 score from dog track bettors, but only 2.77 from the total sample.

TABLE 4-11.—LEISURE TIME ACTIVITIES (AVERAGE NUMBER OF DAYS IN 1974)

	Non-bettors	Bettors	Illegal bettors
Watch television	215	213	206
Read newspapers or magazines	181	227	239
Do nothing, nap, daydream	115	100	102
Read books	92	93	80
Home improvements, gardening	92	79	70
Socialize with friends and relatives	81	85	80
Church or related activities	77	43	37
Knitting, sewing, etc.	59	38	29
Fishing, hunting, camping, etc.	18	29	32
Arts and crafts	18	24	22
Community activities	15	17	24
Active nonteam sports	13	36	34
Attend sports events	13	22	28
Active team sports	9	23	32
Movies or theater	7	17	23
Nightclubs, bars, dancing	6	26	37
Operas, lectures, museums	6	7	10

TABLE 4-11A.—AVERAGE NUMBER OF DAYS GAMBLED ON SELECTED EVENTS

	Participants
Bet on a number	71
Bet in a check pool	29
Bet on the horses with a bookie	29
Bet on sports with a bookie	28
Bet on OTB in New York	28
Play cards with friends for money	25
Play bingo	13
Bet on sports cards	10
Bet on miscellaneous events	10
Go to the dog track	10
Go to the horse track in own State	8
Go to a casino	7
Go to jai alai	5

Sports betting with friends is considered one of the more exciting kinds of wagering, while sports bookie betting is rated as one of the least exciting, lending more support to the notion that excitement is derived from the amount of interaction involved in the activity. All five forms of illegal gambling, in fact, fall at the bottom end of the scale, even among bettors. Bettors on specific games give their games at least moderately exciting scores, except for numbers and sports bookie bettors. Even among loyal bettors, those two failed to approach the midpoint on the excitement scale.

GAMBLING AND CORRUPTION. Gambling and corruption are often linked in the public mind, as previous surveys have consistently demonstrated. The Commission's survey reinforced this finding. The survey included separate questions dealing with the following aspects of the subject: police corruption; political corruption; respect for law; the public's perception of the frequency of fixes in 10 activities that involve gambling; and the impact of legalization of all these aspects

High school sporting events were seen by the public to be the least corrupt of the 10 events, falling midway between "almost never fixed" and "never fixed" on the scale (table 4-13). Overall, sporting events and charitable and State-run gambling fall at the upper end of the scale (meaning they are rarely perceived as crooked). There is uniform agreement that high school sporting events are fixed least often and that numbers is fixed most often. This is true for nonbettors, bettors in general, illegal bettors, and bettors on specific games. All groups see college sports as slightly less crooked than State lotteries, except for illegal bettors, who view State lotteries as more honest.

Five gambling activities fall below the midpoint of the scale (meaning they are thought to be fixed at least some of the time). Among nonbettors, the three levels of sporting events are judged to be more honest than any form of gambling except bingo. Bettors rate all activities as cleaner than nonbettors do, although in most instances the differences between bettors' and nonbettors' perceptions are not great. Illegal bettors and bettors on specific games are less suspicious about the honesty of each game than are respondents generally.

Dograces are seen as cleaner than horseraces among all groups except nongamblers. While casinos are seen as fixed more often than horseraces by four of the groups, casino bettors see their game as cleaner than horserace bettors see theirs. Dogracing is viewed as fixed at least "sometimes" by most groups, but in this case the difference between dograce bettors and the other groups is dramatic. The former see their game as far cleaner than the other groups see it. Horseracing, dogracing, slot machines, and casinos are seen as fixed at least sometimes by most, and numbers is seen as fixed most often of all.

When respondents were asked how legalization would affect this situation, some interesting patterns emerged (table 4-14). A majority of nongamblers think that legalization would change the frequency of fixes, and most of them believe that legalization would increase, rather than decrease, the number of fixes. Bettors, on the other hand, differ as to what would happen if three different games were legalized. Numbers, which has a crooked reputation even among bettors, is expected to change for the better. Legalization of sports betting, however, is expected to increase the number of fixes, which bettors currently see as infrequent. Off-track betting is not expected to change the number of horserace fixes, an opinion no doubt reflecting the evidently corruption-free operation of OTB in New York State.

Legalization Attitudes and Gambling Behavior

The presence of legal gambling and, particularly, the level of legalization within a State are important influences on gambling attitudes and behavior. Although 80 percent

TABLE 4-12.—EXCITEMENT RATINGS FOR 13 GAMBLING ACTIVITIES

Excitement level of	Total sample	Non-bettors	Bettors	Illegal bettors	Bettors of specific games
Horses at track	3.98	2.59	4.83	5.60	6.59
Cards with friends	3.74	2.44	4.53	5.30	N/A
Gambling casinos	3.41	2.06	4.24	5.02	5.80
Slot machines	3.39	2.27	4.08	4.35	5.26
Bingo	3.19	2.55	3.58	3.65	5.08
Sports with friends	3.11	2.07	3.75	4.66	5.01
Lottery	2.80	2.05	3.26	3.52	4.11
Dog tracks	2.77	2.06	3.21	3.50	5.50
Dice	2.54	1.90	2.94	3.89	N/A
Horses off-track	2.06	1.63	2.32	3.33	4.35
Sports cards	1.96	1.59	2.19	3.36	5.44
Sports with bookie	1.74	1.47	1.90	2.88	3.87
Numbers	1.63	1.47	1.74	2.18	3.52

Scale 1 (Not at all exciting) to 8 (Very exciting).

TABLE 4-13.—PERCEPTIONS OF FIXING (MEANS ORDERED FROM LEAST TO MOST)

	Total sample	Non-bettors	Bettors	Illegal bettors	Bettors on specific games
High school sports	4.43	4.30	4.49	4.46	N/A
Bingo	3.88	3.58	4.01	3.92	4.24
College sports	3.87	3.73	3.94	3.89	4.00
Lottery	3.55	3.00	3.81	4.14	4.37
Professional sports	3.38	3.24	3.45	3.43	3.56
Horse races	2.89	2.69	2.99	2.96	2.94
Dog races	2.85	2.75	2.90	3.17	3.65
Slot machines	2.35	2.17	2.44	2.41	N/A
Casinos	2.32	2.13	2.41	2.54	3.05
Numbers	2.02	1.92	2.07	2.34	2.64

1 = Fixed most of time. 2 = Fixed pretty often. 3 = Fixed sometimes.
4 = Almost never fixed. 5 = Never fixed.

TABLE 4-14.—PERCEPTION OF FIXING AFTER LEGALIZATION

	Random subset of bettors			Nonbettors gambling in general
	OTB	Numbers	Sports	
	%	%	%	%
Legalization will lead to:				
Change	*36*	*55*	*54*	*53*
More	64	45	61	68
Less	36	55	39	32
No change	*53*	*41*	*42*	*23*
No answer	*11*	*4*	*4*	*24*

of the population nationwide favors the legalization of some form of gambling, no form receives majority support for legalization in States where it is not already legal (or believed not to be). Once it is legalized and functioning, however, legal gambling receives overwhelming support for its continued operation (table 4-15). Further, forms of gambling that are already legal in several States draw proportionately more support for legalization in States where they are not legal than do forms that are legal on a more restricted basis. For example, horseracing, lotteries, and bingo are favored for legalization by nearly half of those living in States in which they are not legal (47 percent, 47 percent, 48 percent respectively). Dogracing, which is legal in nine States, is favored by 36 percent of the rest of the population; and sports books—legal in only one State—are favored by only 20 percent.

The cumulative effect of multiple legal forms of gambling on attitudes is most visible when reactions toward legalization or toward a currently legal operation are grouped: In States with no legal gambling, 40 percent want to keep things that way. In States with three forms of legal gambling, only 5 percent think no form of gambling should be legal. Further, in States with more than one form of gambling, people have positive attitudes toward more types of games and want to see more than one additional legal type (table 4-16).

Between nonbettors and bettors the distinction is similarly clear: Forty-five percent of the nonbettors and 4 percent of the bettors think no form should be legal. A majority of nonbettors think no form, or at most one form, should be legal, while 48 percent of the bettors think seven or more types should be legal.

Apparently, additional legalization also increases overall gambling participation, as well as increasing favorable attitudes toward more types of games (table 4-17). In States with different numbers of games, participation rates

TABLE 4-15.—COMPONENTS OF POSITIVE ATTITUDES TOWARD LEGALIZATION

	Total positive toward legalization	Desire to continue an already legal facility*	Desire to make an illegal activity legal
	%	%	%
Bingo	68	82	48
Off-Track Betting (N.Y.)	67	69	—
Horse Tracks	62	73	47
State Lotteries	61	81	47
Picket	60	91	—
Dog Tracks	49	72	44
Slot Machines	40	53	40
Gambling Casinos	40	65	40
Off-Track Betting	38	65	36
Sports Cards or Sheets	32	63	32
Pro Sports Betting	31	60	30
Numbers, Bolitas, Policy	22	36	22
College Sports Betting	22	68	22
Bookie Sports Betting	20	42	20
H.S. Sports Betting	16	62	16

*This is a perceived legality which is incorrect in some cases increase steadily and sharply as the number of legal types of gambling increases. Social betting more than doubles from 35 percent in States with no legal games to 72 percent in States with three legal types; the illegal gambling rate more than doubles, from 9 percent to 22 percent; and commercial gambling increases by 43 percent, from 24 percent to 67 percent. Further, the percentage of people who gamble exclusively with friends steadily decreases across these groups from 34 percent to 11 percent. Even those who demonstrated unfavorable attitudes toward gambling gamble in greater proportions in States that have higher levels of legalization, and they also gamble illegally as well as legally in greater proportions. These trends remain even after holding other relevant variables constant.

These findings have relevance for State gambling policy. As more forms are legalized, States should expect overall increases in gambling behavior: They should also be prepared for possible increases in illegal gambling behavior as well. Legalization may not be a completely effective strategy in competing with illegal games, and may in fact encourage the growth of illegal markets by encouraging higher levels of gambling generally. Legalization increases public exposure to gambling and legitimizes the gambling activity; exposure to more types of gambling reduces negative attitudes toward other types of gambling. Both factors create favorable predispositions toward gambling and thereby encourage wider participation.

PERCEIVED CONSEQUENCES OF LEGALIZATION. Gamblers see the different forms of legal gambling as having different consequences for society. The different types of gambling are seen as having both positive and negative effects, although each type shows a different set of perceived strengths and weaknesses. Nongamblers were questioned about "gambling" and saw few positive effects.

Majorities of bettors see the five major types of gambling as creating many more jobs (table 4-18). Almost no one believes that racketeers would be connected with OTB, but they believe that children would be encouraged to gamble on OTB and that people would miss work because of gambling on OTB. Lotteries are seen mainly as a revenue-raising device: Sixty-five percent stated that lotteries would yield a "lot more money to run the government." Nearly one-third, however, believe that racketeers would be connected with a lottery; but almost no one believes that lotteries would cause people to work less because they are gambling. More people believe that lotteries provide "more of a chance for the common man to get rich" than any other form of gambling.

Given the wide circulation of statements by law enforcement agencies concerning organized crime involvement in illegal numbers operations, it is not surprising that people see legalized numbers as depriving organized crime of money more than any other type and generating a great deal of revenue. As with lotteries, relatively few believe people will miss work because of numbers gambling; but unlike lottery statistics, and similar to the casino findings, people think that legal numbers would entice many into gambling more than they can afford, and that it would attract racketeers.

Casino gambling is viewed as potentially the most dangerous form of gambling—the only one where a majority of bettors (61 percent) think that legalization would attract racketeers. Bettors feel that legal casinos would be less effective against organized crime than either legal lotteries or legal numbers. Three-quarters believe casinos would encourage people to gamble excessively, and two-thirds believe children would be influenced to gamble. On the positive side, people think casinos would generate substantial revenue. They also see casinos as creating more jobs than numbers, lotteries, or sports betting, but fewer than OTB would.

Sports betting, popularly thought to be associated with "organized crime," is seen by bettors as having little impact on current organized crime revenue and is not viewed as likely to attract racketeers. They also believe that legal sports betting—more than any other kind—would induce people to miss work because of gambling.

Nongamblers see fewer positive effects of legalizing gambling and more negative consequences than do bettors. Majorities of the nonbettors see all four negative consequences under legalization, with 81 percent believing both that people will gamble more than they can afford and that children would be encouraged to gamble.

With respect to corruption, nongamblers, unlike

TABLE 4-16.—GAMBLING FAVORABILITY AND GAMBLING FACILITIES

		State laws				1974 Participation	
	Total sample %	No legal facilities %	One legal facility %	Two legal facilities %	Three legal facilities %	Nonbettor %	Bettor %
Favorable to Legalizing:							
Nothing	20	40	21	10	5	45	4
One to Three Games	22	22	24	21	18	27	20
Four to Six Games	23	16	19	30	27	13	28
Seven or More Games	35	22	36	39	50	15	48
	100	100	100	100	100	100	100

Based on the questions "... which of these are legal in your State now?" "Any others?" and if legal "Would you like to see ——————— continued or would you like to see it abolished?" and if not legal "... How do you feel about making ——————— legal?" "Are you definitely in favor of legalizing it, do you tend to be in favor of legalizing it, do you tend to be against legalizing it or are you definitely against legalizing it?"

TABLE 4-17.—GAMBLING PARTICIPATION BY NUMBER OF LEGAL FACILITIES IN STATE

	Total U.S. %	No legal facilities %	One legal facility %	Two legal facilities %	Three legal facilities %
Any Gambling	61	41	58	71	81
Legal Commercial Gambling	44	24	36	60	67
Only	16	13	14	20	7
Combined	84	87	86	80	93
Illegal Gambling	11	9	8	12	22
Only	1	0	1	1	1
Combined	99	100	99	99	99
Friend Gambling	50	35	55	54	72
Only	26	34	20	19	11
Combined	74	66	80	81	89

gamblers, predict that legalization would lead to changes in the current situation: They are slightly more inclined to see "less respect for the law" as a result of legalization, although nearly as many see no change (table 4-19). Forty percent predict there will be more political corruption, and 42 percent see legalization as leading to more police corruption. In these instances, nongamblers differ from gamblers most clearly; only among nongamblers do more people predict change in these dimensions and all three predictions involve undesirable change.

Among gamblers, legalization of OTB, numbers, and sports betting is expected to produce changes in the amount of corruption, although more believe there will be no change than agree on the direction of change. Strong majorities of bettors believe that the legalization of each of the five types would not change respect for the law They see sports betting and off-track betting as producing more political corruption and police corruption than the other three types. Curiously, nearly one-fourth see lotteries as causing more political corruption, but not more police corruption; and legal numbers as leading to more political corruption while either reducing or leaving unchanged the amount of police corruption.

State-level regulation is preferred to local or Federal regulation by gamblers and nongamblers alike (table 4-20). While nongamblers think that "gambling" should be run by private business rather than by government employees, gamblers think government and business should operate different forms: OTB, casinos, and, to a lesser extent, sports betting should be run by business, but numbers should be run and operated by the State government. Only in the case of OTB did more than one-third believe control should be in the hands of local government. These findings reflect the current operation of commercial gambling in the United States. Bettors believe casinos should be run as they are in Nevada, and numbers should be run as a State lottery. Just as broad-based support for continuation of local betting follows legalization, preference for a certain mode of operation follows implementation of that mode and becomes generalized.

Compulsive Gambling

Estimates of the number of compulsive gamblers in the United States are few and of doubtful authority. The most commonly cited one is that of Gamblers Anonymous which claims that there are between 6 million and 9 million. The organization cites no basis for this figure; but in the absence of any more credible estimate it has achieved wide currency. No estimate exists of the extent to which widespread legalization would affect this number.

TABLE 4-18.—PERCENT OF RESPONDENTS IN AGREEMENT WITH EIGHT POSSIBLE CONSEQUENCES OF LEGALIZING EACH OF FIVE DIFFERENT GAMES

	Random subsets of bettors					Nonbettors
	OTB %	Casinos %	Lotteries %	Numbers %	Sports %	Gambling in general %
More jobs for people	71	69	57	64	63	41
A lot more money to run the government	53	66	65	58	67	38
Less money for organized crime	33	45	47	55	27	33
More of a chance for the common man to get rich	49	18	56	30	48	14
More people working less because they are gambling	63	43	13	25	67	57
More of a chance that children will be influenced to gamble	60	66	48	61	53	82
More racketeers connected to it	13	61	31	46	22	71
More people gambling more than they can afford	55	76	42	62	59	81

TABLE 4-19.—BELIEFS ABOUT THE EFFECTS OF LEGALIZATION ON CORRUPTION

	Random subsets of bettors					Nonbettors
	OTB %	Casinos %	Lotteries %	Numbers %	Sports %	Gambling in general %
Respect for Law						
More	17	17	19	18	15	13
Less	21	20	7	14	15	38
No Change	57	62	70	64	70	36
Police Corruption						
More	22	26	8	21	26	42
Less	21	16	15	23	23	15
No Change	49	53	71	51	50	27
Political Corruption						
More	36	32	24	30	37	40
Less	11	10	9	18	10	11
No Change	46	51	57	42	47	28

NOTE Where responses do not add to 100 percent the remainder is no answer.

TABLE 4-20.—OPERATION AND REGULATION OF GAMES IF THEY BECOME LEGAL

	OTB		Casinos		Numbers		Sports		Gamblers in general	
	% of total sample	% of sample answering	% of total sample	% of sample answering	% of total sample	% of sample answering	% of total sample	% of sample answering	% of non-bettors	% of non-bettors answering
Should be operated by										
Government Employees	30	35	28	34	42	65	42	47	24	42
Private Businessmen	55	65	54	66	38	35	47	53	33	58
Nonresponsive answers	15		18		20		11		43	
Should be regulated by*										
Federal Government	18	18	15	15	19	26	21	22	21	33
State Government	42	43	58	58	34	48	59	61	27	42
Local Government	37	37	17	17	19	26	16	17	15	24
Don't Care	3	2	10	10	—	—	—	—	—	—
Nonresponsive answers	—	—	—	—	38	—	4	—	37	1

*Responses of lifetime participants only for nonbettor column.

Among many other things, the Commission's survey was designed to produce a data-based estimate of the number of compulsive gamblers and a projection of how that number might be affected by legalization of most gambling, as is now the case in Nevada. To do so, the survey developed a personality-oriented section of the questionnaire geared to elicit responses that would indicate whether an individual in the survey was likely to become a compulsive gambler. The questions were chosen from a questionnaire distributed to a group of 274 compulsive gamblers and to 239 members of Protestant churches. From the 119 items in that questionnaire, 18 were selected.

These 18 items were then used to identify which persons in the survey appeared to have the same characteristics as compulsive gamblers. A clinical analysis was conducted of the responses of those individuals, in order to sort out those whose reported betting also indicated a probable gambling problem.

This analysis was based on observations recorded by the interviewer at the end of each interview, and on the betting reported by the respondent. As a result of this clinical examination, it was estimated that 0.77 percent of the national sample could be classified as "probable" compulsive gamblers, with another 2.33 percent as "potential" compulsive gamblers. A projection of these figures indicates that there are approximately 1.1 million compulsive gamblers in the Nation. The figures are significantly higher for men than women: Among men, 1.1 percent were classified as probable compulsive gamblers and 2.7 percent as potential compulsive gamblers; for women the comparable figures were 0.2 percent and 2 percent respectively (see table 4-21).

The University of Michigan survey team believes, and the Commission concurs, that these estimates should be treated as suggestive rather than conclusive. Research on compulsive gambling is so meager that it is impossible to be sure that one has identified the personality disorder correctly. Because of limitations of time and resources on the project, the approach used in developing the estimate

TABLE 4-21.—CLASSIFICATION AS COMPULSIVE GAMBLERS AND POTENTIAL COMPULSIVE GAMBLERS BY SEX (NATIONAL AND NEVADA SAMPLES)*

	Potential compulsive gamblers		Probable compulsive gamblers	
	Nationally %	Nevada %	Nationally %	Nevada %
Men	2.7	3.8	1.1	3.3
Women	2.0	1.1	0.5	2.0
Total	2.33	2.35	0.77	2.62

*The percentages are based on small samples and the results should be interpreted as order effects rather than in terms of absolute percentages

was the only feasible one. Nonetheless, it should be recognized that although the characteristics sought by the questionnaire are plausibly associated with the personality type usually described as a "compulsive gambler," they may not distinguish sharply enough between this disorder and others. On the other hand, the survey results do strongly suggest that there is a significant number of persons for whom heavy gambling may be a problem.

The same set of criteria was used for the 296 Nevada respondents. On the basis of that sample, it was projected that 2.62 percent of the Nevada population could be classified as probable compulsive gamblers, with another 2.35 percent in the potential category. Again, the projections differed markedly between the sexes: For men, 3.3 percent were classified as probables, with another 3.8 percent classified as potentials, compared with 2 percent and 1.1 percent, respectively, for women

Not only is the incidence of compulsive gambling higher in Nevada than in the national sample, but the ratio of probables to potentials is as well. This is consistent with the hypothesis that widespread availability of gambling in a legal form leads a portion of those classified as potential compulsive gamblers to actualize their potential compulsion. This effect is more pronounced for women than for men and is also consistent with the observation that women are more easily accepted into legal gambling environments than into illegal operations, where the player frequently has to establish a credit rating; this may be a difficult matter for women who are seen as dependent on their husbands financially.

The findings concerning Nevada are tentative. Because the sample is small, the difference between the national and the Nevada estimates lies within the limits of sampling error. It also may be the case that, although an effort was made to screen out those individuals who moved to Nevada specifically because gambling was more readily available there, the Nevada population includes a disproportionate number of gambling-prone persons.

Kinds of Betting

Table 4-22 shows a demographic breakdown of gambling participation by kind of game. Survey results pertaining to individual games are contained in chapter 5.

TABLE 4-22.—DEMOGRAPHIC BREAKDOWN OF GAMBLING PARTICIPANTS

	Legal					Illegal			
	Horses, track %	Casinos %	Bingo %	Lotteries %	Dogs %	Sports books %	Horse books %	Numbers %	Sports cards %
Region									
Northeast	20.1	8.7	25.4	55.3	4.9	3.0	5.6	8.1	4.7
North Central	11.7	4.9	22.3	31.7	4.1	3.1	1.7	2.2	4.4
South	9.5	1.7	11.2	6.0	3.2	1.0	1.5	1.1	1.8
West	16.1	31.1	17.4	3.0	3.9	0.1	0.8	0.9	1.7
Income									
Under $5,000	6.5	4.1	8.6	10.3	1.7	0.1	0.6	1.2	0.2
$ 5,000-$10,000	11.9	8.1	18.8	15.1	2.9	1.3	1.9	3.6	1.8
$10,000-$15,000	10.1	6.2	20.3	24.0	4.9	1.2	2.7	2.7	2.9
$15,000-$20,000	16.3	12.3	21.6	31.0	2.9	2.6	3.1	3.4	4.9
$20,000-$30,000	19.1	12.1	22.1	35.0	4.9	2.6	2.2	2.9	5.7
$30.000 and over	21.6	20.6	17.2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
No answer	17.1	6.5	19.8	23.8	7.4	2.8	2.5	2.9	2.4
Education									
Grade school	7.7	4.1	15.3	18.0	1.6	0.9	1.8	2.6	2.0
High school	15.3	8.4	22.5	26.5	4.4	1.8	3.7	4.8	3.1
Some college	14.0	14.7	21.1	25.5	5.0	3.0	2.2	2.8	4.3
College degree	23.0	15.6	15.6	31.1	6.4	2.7	1.3	1.1	4.3
No answer	12.9	9.0	9.0	2.3	0.0	0.0	0.0	0.0	0.0

TABLE 4-22.—DEMOGRAPHIC BREAKDOWN OF GAMBLING PARTICIPANTS *continued*

	Legal					Illegal			
	Horses, track %	Casinos %	Bingo %	Lotteries %	Dogs %	Sports books %	Horse books %	Numbers %	Sports cards %
National Origin									
African	17.5	5.2	23.3	26.8	5.1	0.2	1.9	6.1	0.4
Spanish-speaking	24.7	21.2	15.2	16.6	3.6	1.5	5.6	10.4	2.3
Italian	26.4	10.1	27.5	46.2	9.0	4.6	9.6	11.5	7.3
Other	12.8	9.2	18.1	23.1	3.6	1.9	1.9	2.1	3.1
Religion									
Jewish	28.1	23.0	11.4	51.6	10.0	6.4	3.0	4.2	2.8
Catholic	19.6	10.1	28.8	38.5	3.9	2.7	3.8	4.7	5.2
Bible-oriented sects	7.0	4.0	9.1	5.0	0.4	1.7	1.8	1.7	1.4
Other	11.9	9.7	16.4	20.4	4.4	1.4	1.8	2.4	2.6
Age									
Under 25	14.4	6.2	26.6	17.1	6.0	1.9	3.2	3.9	3.9
25-44 years	17.4	11.7	21.0	30.0	5.0	2.5	2.9	3.7	4.3
45-64 years	12.7	10.2	16.2	24.7	2.5	1.9	2.1	2.6	2.5
Over 65 years	3.2	3.5	8.3	9.5	1.7	0.1	0.5	0.4	0.1
Distance From 25 Largest Cities									
Less than 25 miles	17.3	12.0	16.3	27.7	3.7	2.0	3.2	6.7	3.8
25-50 miles	21.5	13.3	20.8	39.3	5.3	2.8	2.5	2.9	4.0
Over 50 miles	10.0	7.1	19.7	18.8	3.8	1.7	1.8	0.8	2.6
Sex									
Male	15.7	8.8	16.0	28.6	6.0	3.7	4.2	3.9	6.7
Female	12.0	10.2	21.1	20.3	2.1	0.3	0.8	2.2	0.1
Total Sample	14.8	9.4	18.7	24.1	3.9	1.9	2.4	3.0	3.0

CHAPTER 5. LEGAL GAMBLING INDUSTRIES

INTRODUCTION

In 1960 Americans wagered about $5 billion through legal commercial channels. By 1974 this figure had grown to more than $17 billion, an increase of about 340 percent. This phenomenal growth in legal gambling has taken two forms. Existing legal industries have undergone substantial [illegible] legal gambling have been created. During this 15-year period, for example, six additional States established parimutuel horseracing and the total number of horseracing dates increased from 6.000 to 12,000. Nevada's casino industry also underwent significant growth; gross taxable casino revenue increased almost 600 percent, from less than $200 million in 1960 to more than $1 billion in 1974. In 1964, New Hampshire became the first of 13 States so far to establish a State-operated lottery; in 1971, New York legalized the Nation's first parimutuel off-track betting system; and in 1974, New Jersey added still another industry to the gambling field by establishing the first legal numbers game. Today, the growth in legal gambling shows no signs of abating and may even be accelerating, as additional States compete in the gambling arena with an expanding array of "bigger and better" games of chance.

This chapter provides an in-depth examination of the five principal forms of legal gambling available today: casinos, on-track parimutuel wagering, off-track betting, lotteries (including numbers), and bingo. Each section contains a brief history of the development of the game, its revenue and regulatory aspects, problems that the industry faces, and the findings of the Commission's gambling survey. Each section concludes with the Commission's recommendations for change in the structure, organization, and operation of the games, an appendix to this volume contains model regulations for each game, as well as a general State gaming statute

Legal Gambling Considerations

The following table compares the different types of gambling in terms of revenue for government, regressivity as a form of taxation, ability to compete with illegal gambling, corruption problems, impact on gambling behavior, and rate of taxation. Games in each category are rated as either low, medium, or high; ratings are based on published information where available and on the results of the Commission's gambling survey (see chapter 4). With respect to lotteries, bingo, racing, OTB, and casinos, the ratings reflect the current situation; with respect to the illegal games, an attempt was made to predict what would result if legalization were to occur. As the several question marks on the table indicate, sufficient data are not available in some cases to make definitive judgments. This is particularly true in projections regarding the three principal forms of illegal gambling—numbers, sports cards, and single-event sports betting. In all cases, the impact of a legal gambling enterprise will depend largely on how, by whom, and for what purpose it is operated.

LEGAL GAMBLING CONSIDERATIONS

	Revenue for government*	Regressivity*	Ability to compete with illegal gambling*	Corruption problems with legal form*	Impact on gambling behavior*	Tax rate*
Lotteries	Medium	Medium	Low	Low	Medium	High
Numbers	High	High	High	Low	High(?)	High
Bingo	Low(?)	Medium	Low	Medium	Low	Low
Racing (Horse and Dog)	High	Low	Low	Medium	High	High
OTB	High	Low	Medium	Low	High	High
Casinos	Low	Low(?)	Low	High	High	Low
Sports Cards	Low-Medium	High	?	?	Low	High
Single-Event Sports Betting	Low	Low(?)	?	?	?	Low

*Relative to other forms of gambling

CASINOS

Within the United States, casino gambling is legal only in Nevada, an expansive arid State whose entire population would fit comfortably into a city the size of Columbus, Ohio. Nevada has had a 45-year monopoly on an industry that is variously deplored, admired, and envied by its sister States. Its colorful gambling history has been chronicled in numerous books, films, and newspaper and magazine articles. All have contributed to the industry's glamour and mystique, but few have examined it objectively. Rumor, innuendo, and exaggeration have combined to create a folklore of Nevada gambling that is based as much on conjecture and assumption as it is on historical fact and current reality. Much of the speculation has centered on the alleged ties between the casinos and members of organized crime, profit skimming by casinos to avoid taxation, the link between gambling and crime rates in Nevada, the profitability of casinos, and the effectiveness of State regulation.

In recent years, a number of States have taken an increased interest in Nevada's brand of casino gambling. Some gambling proponents see casinos as the answer to their State's revenue problems. Others merely see no valid moral, social, or economic reasons why other States should not follow Nevada's example. Opponents of casino gambling point to the alleged ties to the underworld and the higher crime rates in Nevada's principal gambling cities as reason enough to prevent the spread of the casino gambling phenomenon.

The National Gambling Commission has studied casino gambling in Nevada in an attempt to separate fact from rumor and to present reliable, up-to-date information that State legislators, law enforcement officials, and the general public may use in forming their own opinions on the subject. The Commission held 4 days of hearings in Nevada during which time it heard testimony from 38 witnesses including casino industry spokesmen, law enforcement and regulatory officials, elected Federal and State representatives, religious and educational leaders, and members of the press and private industry in Nevada. In addition, the Commission took testimony from officials in the Commonwealth of Puerto Rico, Great Britain, and the Bahamas on their experiences with legalized casino gambling. Through these hearings, combined with independent research, the Commission has reached a number of conclusions about casino gambling that run contrary to many of the traditional viewpoints. In brief, the Commission has found that

1. Although organized crime once was a significant factor in some Nevada casinos, its influence has declined considerably and consistently during the past 10 years. In comparison with the situation 15 years ago, the presence of organized crime in Nevada today is negligible

2. Stringent accounting regulations and sound internal control mechanisms effectively prevent most skimming of casino profits by owners. Theft by casino employees and customers occurs more frequently.

3. Nevada's gambling cannot be held solely, or even primarily, responsible for the higher-than-average crime rates in Reno and Las Vegas. Gambling is one of the many factors that affect crime rates in these cities.

4. While successful casinos provide a high rate of return on investment, many are only marginally profitable, and a few operate at a loss.

5. Although gambling taxes and fees constitute a significant percentage of Nevada's State income, both New York and California earn more from taxes on parimutuel wagering alone than Nevada collects through assessments on casinos. In terms of total State revenue from all forms of gambling (including lotteries), Nevada ranks only sixth.

6. It has taken Nevada many years to develop and refine its system of casino regulation, a process that is still ongoing. On the whole, State regulations are sufficiently stringent and enforcement is effective.

The material that follows presents an overview of Nevada's legal casino industry, including financial and economic considerations; local, State, and Federal regulation; internal operation and control; and a brief historical review of the evolution of casino gambling from a casual pastime into a billion-dollar industry. It also contains a review of legal casino gambling in the Commonwealth of Puerto Rico, the only American jurisdiction outside of Nevada where casinos are legal; in Great Britain; and in the Bahamas.

HISTORICAL PERSPECTIVE[1]

In 1849, the discovery of gold in California caused the westward migration of thousands of prospectors eager to gamble on the possibility of striking it rich. Geographically, Nevada was the final obstacle between the prospector and the fulfillment of his dream. Discovery of the Comstock Lode in 1859 and gold strikes in the Tonapah and Goldfield areas in the early 1900's boosted Nevada's population considerably. In the dusty little mining towns, gambling was the principal form of recreation for male members of the community.

The first official restrictions on gambling in Nevada came in 1861, when the Nevada Territory was formed. Running a gambling operation was made a felony, and betting a misdemeanor. As an added incentive to law enforcement officials, the law awarded district attorneys $100 for every gambling conviction they secured. Other legislation enacted in the 1860's first decreased the penalties for illegal gambling and then legalized various gambling activities through a licensing scheme.

Gambling flourished in the back rooms. It was not permitted in front rooms of saloons and gambling halls as long as the gold and silver mines remained productive. Roulette, dice games, poker, monte, and faro were the most popular games. Gambling was considered a respectable pastime and gambling operators for the most part were regarded as respectable businessmen. Opposition to gambling was strongest in the nonmining towns. The women of Nevada—uniformly excluded from all gambling activities—were often at the forefront of the antigambling movement. In 1909, the State legislature passed a law making it a felony to operate a gambling game and authorizing police to break down doors, and seize and destroy any gambling equipment found on the premises.

It soon became apparent, however, that the tough new antigambling law was not having the effect its sponsors had intended. The games were driven underground and the State was deprived of the license fees it had previously collected. The law attracted underworld gamblers skilled in the arts of cheating and bribing public officials. In 1913, the legislature reiterated its strong antigambling stance. Two years later, gambling on a restricted scale was once more permitted.

This legislative seesawing had no effect on the illegal games, which increased in size and number each year. One historian summed up the situation as follows:

> This patchwork law remained in force for sixteen years, during which time it was by all accounts either ignored completely or so feebly enforced as to be worse than useless. Its fatal defect lay in the fact that the games allowed in the licensed houses had little appeal to the gambling public, which accordingly shunned them and patronized instead the numerous undercover resorts that promptly sprang up. As a result, state and local revenues from licenses fees declined year by year while the illegal houses multiplied.[2]

The pendulum began to swing in the direction of legalization. Even stronger than its desire to crush the menace of illegal gambling was the State's need to raise funds during the depression. Despite persistent opposition from the clergy and various reform and women's groups, the Nevada legislature in 1931 finally passed a new "wide open gambling bill" that legalized all forms of casino gambling.

Passage of the 1931 law did not signal the hurried construction of the enormous casino resorts that characterize Nevada gambling today. More than a decade passed before gangster Benjamin "Bugsy" Siegal, member of Murder, Inc., built the gaudy prototype of the modern Las Vegas Strip casino.

The 1931 law enabled the operators of previously illegal gaming rooms to rent ground-level storefronts. Otherwise gambling proceeded with little change. Funds that had been used to buy protection now went to pay the modest license fees and taxes.

County sheriffs were responsible for administering the law. Five-member boards—three county commissioners, the district attorney, and the sheriff—had license-granting authority. There was no enforcement at the State level.

In 1945, the State legislature passed an amendment that required applicants to obtain licenses from the State Tax Commission as well as from the county boards. The Tax Commission then proceeded to adopt stricter licensing requirements. The 1945 law also imposed on gambling operators a State tax of 1 percent of gross earnings. Additional amendments in 1947 and 1949 further extended the Tax Commission's authority in the area of enforcement and increased the tax rate to 2 percent of gross earnings. Today, gross gambling revenue is taxed at a graduated rate ranging from 3 percent to 5.5 percent. Altogether, gambling operations are now subject to five different types of State-level taxation.

It was in Reno that gambling first acquired the aura of genuine respectability. In 1937, Raymond I. Smith opened Harolds Club. Smith replaced the smoky drabness of the traditional casino environment with bright lights and [illegible]ments. He lowered the stakes to attract small bettors and provided transportation home for players who went broke.

William F. Harrah went even further. In 1946, he opened the club that bears his name next door to Harolds Club. He commissioned a research firm to develop a profile of his most likely customers. The results showed that the elderly and low-income people might become eager gamblers in the proper setting. Harrah gave them the opportunity by providing bus service to and from 31 cities. Harrah also installed glass walls so that anyone walking by could see the action inside, creating the impression that the establishment had nothing to hide. Later he replaced the glass window with an "air curtain" so that the tempting sounds of clinking silver dollars and shouts of "Jackpot" could filter out onto the street.

The phenomenal growth of gambling in Las Vegas can be traced in large measure to the activities of Bugsy Siegal. Most Las Vegans knew Siegal as a personable, enterprising young sportsman. His nefarious background and ties to the underworld became known only after his death. It was Siegal's ambition to build a luxurious complex that would offer gambling, recreation, entertainment, and other services catering to the area's increasing tourist trade. Siegal borrowed money from his underworld colleagues to build the $5 million Flamingo Hotel along Highway 91, just outside the city limits. Long delays in construction, expensive cost overruns, and various other transgressions angered Siegal's creditors, who engineered his gangland-style execution in 1947.

The news of Siegal's death and the ensuing revelations about his criminal career generated enormous publicity around the country and even appeared to attract additional business for the city's gambling halls. In the next few years, the Strip acquired several new hotel/casinos that eclipsed the Flamingo in size, star-studded openings, and opulent decor. Las Vegas was well on its way to becoming the country's gambling mecca.

The financial success of the Flamingo attracted additional underworld figures from such cities as New York, Detroit, Cleveland, and from resorts like Newport-Covington, Ky.

In 1950, the Kefauver Committee (Special Senate Committee to Investigate Organized Crime in Interstate Commerce) began its investigation of organized crime, and one aspect of its inquiry centered on Nevada gamblers. The committee's summary report contained this assessment of the situation in Nevada:

> It seems clear that too many of the men running gambling operations in Nevada are either members of existing out-of-state gambling syndicates or have histories of close association with the underworld characters who operate these syndicates.

It had become evident that the Nevada Tax Commission, even with its strengthened licensing and enforcement powers, had proved unable to keep undesirables from infiltrating the gambling business. At stake was the future of legalized gambling in the State. If hoodlum control were not checked, Nevadans—or the Federal Government—could easily take steps to terminate the 1931 experiment.[3]

Following the Kefauver report, the State of Nevada and the Federal Government intensified their efforts to uncover and eradicate hidden criminal interests in Nevada gambling operations.

In 1955, a Gaming Control Board was created to act as the enforcement and investigative unit of the Tax Commission. Four years later, Governor Grant Sawyer called for a complete revamping of the gambling control machinery. A five-man Nevada Gaming Commission was created and a State Gaming Control Board was established as the Commission's audit, investigative, and enforcement arm. The new Gaming Commission was given greatly expanded investigative and regulatory powers, all designed to insure that "criminal elements, mobs, or syndicates have neither interest in nor control of existing businesses." In 1961, the Nevada legislature created the Gaming Policy Board, an advisory body established to give the Governor a greater voice in gambling matters.

Although few would claim that the influence of organized crime has been completely eradicated in Nevada, most authorities agree that at least it has been significantly reduced. During the 1960's, syndicate control over casino operations began to be replaced by large corporate investments in gambling properties. In the past 10 years alone, more than half of the major casino hotels have changed ownership and many new hotels have been built, a situation the Gaming Commission believes has resulted in the gradual weeding out of undesirables. Organizations such as Del Webb Corp., Continental Connector (an eastern electronics firm), and Lum's, Inc. (a Florida-based restaurant chain) invested in some of the Strip's largest casino/hotels including the Sahara, Thunderbird, Dunes, and Caesar's Palace. Among the new hotels built were the Las Vegas Hilton and MGM's Grand Hotel. The latter, which opened in December 1973, bills itself as the "world's largest resort hotel." It has 2,100 rooms, 6 restaurants, 3 show lounges, and a casino larger than a football field.

Among the largest corporate investments in Las Vegas were those made by Howard Hughes. In 1967, Hughes bought the Desert Inn, thereby initiating his collection of Las Vegas properties, which eventually included the Sands, Landmark, Frontier, Castaways, and Silver Slipper. In Reno he bought Harolds Club from its original owners, the Smith family. His nongambling acquisitions in the State included mining claims, an aviation facility for private and charter planes, and a television station. In a short [illegible] became the State's largest employer.

THE INDUSTRY TODAY

With much of the country experiencing economic adversity, Nevada stands almost alone in terms of fiscal soundness. The State has felt only minimally the effects of recession and high unemployment and anticipates a fiscal year 1975 budget surplus of $23 million, or about 10 percent of its current operating budget. This phenomenon may seem even more remarkable in view of the fact that Nevada has no State income tax on either individuals or businesses.

At the core of Nevada's economic success is its thriving gambling industry and related tourist enterprises. In 1975, for the second time, the gaming[4] industry's gross taxable revenue exceeded $1 billion.[5] This represented a 12.2 percent increase over 1974 and a 392 percent increase over the 12-year period from 1964 to 1975 (see table 5-1).

TABLE 5-1 —GROSS TAXABLE GAMING REVENUE,* STATE OF NEVADA

Year	Taxable revenue	Percent change
1964	$ 292 828 078	—
..	..	..
1970	575,505,370	—
1971	633,338,317	+10.2
1972	731,170,284	+15.4
1973	875,899,724	+19.8
1974	1,004,361,692	+14.7
1975	1,126,415,410	+12.2
	Percent change 1964-1975	+385

*The total of all sums received as winnings less only the total of all sums paid out as losses (before operating expenses)
Source Nevada Gaming Control Board

TABLE 5-2.—DIRECT LEVIES PAID BY THE GAMING INDUSTRY, FISCAL YEARS 1964-1975 (in millions)

		Federal[1]		State		County		Other[2]	
Year	Total	Amount	% of total	Amount	% of total	Amount	% of total	Amount	% of total
1964	$27.2	$ 7.1	26.1	$14.5	53.3	$ 3.9	14.3	$1.7	6.3
1965	27.6	6.7	24.3	15.1	54.7	4.1	14.8	1.7	6.2
1966	33.1	7.8	23.6	18.8[3]	56.8	4.7	14.2	1.8	5.4
1967	40.2	9.0	22.4	23.9	59.4	5.1	12.7	2.2	5.5
1968	45.6	9.2	20.2	29.0	63.6	5.2	11.4	2.2	4.8
1969	48.8	7.7	15.8	33.3	68.2	5.6	11.5	2.2	4.5
1970	58.5	10.1	17.3	39.3[4]	67.1	6.7	11.5	2.4	4.1
1971	62.2	11.2	18.0	41.7	67.0	6.8	10.9	2.5	4.1
1972	77.5	11.8[5]	15.2	54.9[6]	70.8	8.0	10.3	2.8	3.6
1973	79.3	4.9	6.2	62.3	78.6	9.1	11.5	3.0	3.7
1974	92.8	5.0	5.4	74.4	80.2	10.1	10.9	3.3	3.5
[illegible]	[illegible]	4.3	4.3	82.5	81.9	10.7	10.6	3.2	3.2

[1] Does not include Federal income taxes paid by casinos.

[2] Cities and other local governments.

[3] Includes new State casino entertainment tax at 10 percent of sales.

[4] Includes new State flat fees on games and slot machines and State percentage fee rate increase based on gross revenue.

[5] Includes annual slot machine tax of $250 for each machine operated during the fiscal year ended June 30, 1972. Effective July 1, 1972, the annual rate was reduced to $50 for each machine because of an 80 percent Federal tax credit allowed to the State (see note 4). Federal figures for fiscal 1973 reflect a substantial decrease because of the above noted rate reduction.

[6] Includes annual slot machine tax of $200 for each machine (paid in advance of July 1, 1972) to be operated during the fiscal year ending June 30, 1973, which is based on the 80 percent Federal tax credit indicated in note 5 above.

Source: Nevada Gaming Control Board.

Approximately 29 percent of Nevada's 263,700 salaried employees in 1975 worked in the gaming industry and related tourist businesses. An additional 25 percent depended indirectly upon the gaming industry (e.g., construction workers, retail merchants, government workers).[6]

THE STATE'S SHARE. In fiscal year 1974, Nevada's General Fund collected $148.5 million in taxes, license fees, and other revenue. Approximately 47 percent of that amount consisted of the various gaming and license fees. Table 5-2 shows gaming revenue collected by the Federal Government, the State of Nevada, and Nevada counties and municipalities from fiscal years 1964 to 1975.

Although gambling revenues constitute about one-third of Nevada's total State income, as compared to only 2 to 4 percent of the income of such States as New York and New Jersey, it is important to note that Nevada ranks only sixth among the States in total gambling revenues earned. New York and California earn more from on-track parimutuel racing alone than Nevada generates through assessments on casinos. New York's combined on-track, off-track, and lottery earnings in 1975 were almost three times greater than Nevada's gaming revenues.

Casino gaming in Nevada is subject to five different types of State taxes. Table 5-3 shows the amount collected in each of the five categories from 1970 to 1975. A brief description of each tax follows:

1. Quarterly percentage fees. This is a graduated tax based on net winnings before operating expenses. The fees are 3 percent of the first $150,000, plus 4 percent of the next $250,000, plus 5.5 percent of revenue in excess of $400,000.

2. Annual State license fees. This flat fee is based on a graduated scale starting at $100 for one game and increasing according to a formula based on the number of games operated by a licensee. The funds collected through this tax are distributed equally among Nevada's 17 counties after administrative costs have been deducted.

3. Quarterly flat license fees. This fee is also based on the number of games operated, beginning at $12.50 for 1 game and increasing to $20,000 for 36 games, plus $25 for each game in excess of 36 games. Quarterly fees are also imposed upon slot machines. Establishments with 15 or fewer slot machines and no other gaming (restricted licensees) pay a license fee of $100 per year in quarterly installments for each machine. Restricted licensees pay this fee instead of the quarterly percentage fees. All other establishments (nonrestricted licensees) pay $10 per quarter for each slot machine.

4. Slot machine tax. This is an annual State tax of $200 on each slot machine. This fee is payable to the State as a credit against the Federal tax of $250 on each slot machine. The Federal Government thus receives $50 on each machine. Nevada uses the funds collected through this tax to support education in the State.

5. Casino entertainment tax. This is a 10 percent tax on food, merchandise, and services in establishments having live entertainment and at least 51 slot machines or 4 gaming tables.

A sixth tax, the quarterly county license fee, is collected by the sheriff of each county. The fee covers card games

($25 a month for each table), other games such as 21, craps, and roulette ($50 a month for each game), and slot machines ($10 a month for each machine). Twenty-five percent of the revenue collected through this tax goes into the State's General Fund. The remainder is divided among the counties and cities.

Various other county, city, and town fees and taxes also are imposed on gaming licensees.

GAMING IN CLARK COUNTY. Two population centers in Nevada account for the vast majority of all gaming revenues: Las Vegas (Clark County) and Reno (Washoe County). The Lake Tahoe (Douglas County) resort area is another gambling center. Clark County generates approximately 68 percent of Nevada's total gaming revenue. Table 5-4 compares gross taxable gaming revenue in Clark, Washoe, and Douglas Counties.

It is impossible to separate the growth of gaming revenue from the growth of the tourist trade as a whole. This trade can be measured in terms of tourist volume, hotel and motel room occupancy rates, and other factors, as shown in table 5-5.

In 1975, there were 7,000 more jobs in Clark County than the year before. Most of the increases were in the hotel and gaming service industries. The 47,000 jobs in these industries accounted for approximately 33 percent of total jobs in Clark County in 1975.

TABLE 5-3.—NEVADA GAMING LICENSE AND TAX FEES COLLECTED,* 1970–1975

	Percentage fees		Annual license fees		Quarterly flat license fees		Slot machine taxes		Casino entertainment taxes	
Year	Amount	Percent change	Amount	Percent change	Amount	Percent change	Amount	Percent change	Amount	Percent change
1970	$28,879,200	—[1]	$1,133,150	—[1]	$3,780,264	—[1]	—[1]	—[1]	$6,320,825	—[1]
1971	31,624,229	+ 9.5	763,508	−32.6	3,616,061	− 4.3	$8,760,609[2]	—[1]	6,862,864	+ 8.6
1972	35,898,063	+13.5	1,203,242	(1)	4,363,810	+20.7	8,760,609[2]	—[1]	7,523,931	+ 9.6
1973	42,150,445	+17.4	1,638,000	+35.1	4,989,022	+14.3	9,581,241	+9.4	8,675,846	+15.3
1974	49,857,754	+18.3	1,438,550	(1)	5,169,008	+ 3.6	9,847,000	+2.8	10,710,442	+23.5
1975	57,001,514	+14.3	1,070,400	−25.6	5,059,064	− 2.1	10,331,646	+4.9	11,056,906	+ 3.2

[1] Percentage increase/decrease computations not meaningful.

[2] Collection of this tax began in the second quarter of calendar year 1972.

*The figures include taxes on sports and race books, which, combined, account for only a tiny percentage of the total amounts collected in the applicable categories.

Source: Nevada Gaming Control Board.

TABLE 5-4.—GROSS TAXABLE GAMING REVENUE,* CLARK, WASHOE, AND DOUGLAS COUNTIES, 1970–1975

	Clark County		Washoe County		Douglas County	
Year	Amount	Percent of State	Amount	Percent of State	Amount	Percent of State
1970	$369,286,977	64.3	$115,806,312	20.2	$ 71,544,128	12.5
1971	399,410,971	63.0	132,843,184	20.9	80,552,063	12.7
1972	476,126,720	65.1	138,322,042	18.9	91,252,219	12.5
1973	586,093,660	66.9	158,466,251	18.1	99,529,671	11.4
1974	684,714,502	68.2	170,409,710	17.0	112,305,672	11.2
1975	770,336,695	68.4	193,212,293	17.2	121,961,020	10.9

*The total of all sums received as winnings less only the total of all sums paid out as losses (before operating expenses).

Source: Nevada Gaming Control Board.

TABLE 5-5 —RESORT TRADE REVENUE, CLARK COUNTY, NEVADA

	1975	1974	1973	Percent change 1973-1975
Estimated tourist volume[1]	9,151,427	8,664,751	8,474,727	+ 5.6
Number of hotel rooms	21,107	18,557	17,519	+20.4
Hotel occupancy percentage	84.2%	86.0%	88.3%	− 4.1
Number of motel rooms	14,083	14,269	11,679	+20.6
Motel occupancy percentage	72.8%	68.7%	78.5%	− 5.7
Average number of nights stayed	3.0	2.7	2.7	+11.1
Estimated revenue @ $50 per person per day[2]	$1,412,228,560	$1,206,374,805	$1,185,989,509	+19.1
Gaming revenue	$ 770,336,695	$ 684,828,388	$ 586,093,660	+31.4
Total revenue	$2,182,565,255	$1,891,089,307	$1,772,083,169	+23.7

[1] Includes 750,000-850,000 visitors in recreation vehicles and 950,000-1,000,000 visitors to the area who did not remain overnight

[2] Includes conventioneer spending @$60 per person per day for 4.59 nights stayed, gaming revenue excluded

EXTERNAL CONTROL

Primary responsibility for regulating the Nevada gaming industry resides with the Nevada Gaming Commission and its auxiliary State agencies—the State Gaming Control Board and the Gaming Policy Committee. On the Federal level, the Department of Justice, the Internal Revenue Service, and, most recently, the Securities and Exchange Commission take an active interest in gaming affairs, both to detect possible violations of Federal law by those within the industry and to protect gaming licensees from crimes perpetrated by outsiders. On the local level, law enforcement agencies in Nevada assist the State Gaming Control Board in conducting background investigations on license applicants in addition to various other gaming-related enforcement responsibilities. This combination of State, Federal, and local oversight make Nevada gaming the most closely scrutinized private industry in the country.

Gaming Control Act

The Nevada Gaming Control Act (Chapter 463 of the Nevada Revised Statutes) is the foundation upon which the gaming industry is built. The act has been amended and updated several times since its passage in 1931. The most significant recent amendments, passed in 1967 and 1969, concerned the issuance of gaming licenses to public corporations. The following is a synopsis of the act's major provisions.

1. State regulatory mechanism: Establishes and sets out the duties of the Gaming Policy Committee, headed by the Governor; the Nevada Gaming Commission, whose members are appointed by the Governor; and the State Gaming Control Board, the independent investigatory and enforcement arm of the Gaming Commission.

2. Gaming licenses: Provides for the licensing of those who conduct gaming, horse bookmaking, and sports bookmaking, as well as those who provide information that facilitates the placing of wagers. In addition, those who manufacture, lease, or deliver gaming equipment are subject to licensing requirements.

3. License fees: Imposes several types of State and county fees and taxes on gaming licensees.

4. Licensing of corporations: Specifies the conditions under which private and publicly traded corporations may obtain gaming licenses.

State Regulation

In the 45 years since gambling in Nevada was legalized, the State's role in licensed gaming has evolved from a simple tax collection scheme into a sophisticated regulatory system covering every facet of the gaming operation.

Nevada had been ill prepared to deal with the rapid growth of the gaming industry following World War II. The State's overburdened license-granting authority issued gaming licenses to people with long criminal histories and overt ties to organized crime. This influence in the State gave Nevada gaming an unsavory reputation among reputable financial institutions and discouraged investment by legitimate business. The gaming control mechanism that exists today is the result of a sustained trial-by-fire effort to remove the fact as well as the appearance of wrongdoing. There is considerable evidence that this effort is succeeding. The presence of large public corporations in Nevada gaming is one measure of that success. Gradually, too, the reluctance of banks and other traditionally conservative financial institutions to invest in Nevada gaming properties is being overcome.

The State regulatory mechanism consists of three bodies: the Gaming Policy Committee, headed by the Governor and responsible for discussing matters of gaming policy; the Nevada Gaming Commission, consisting of five members appointed by the Governor and having final authority to require, grant, deny, or revoke gaming licenses, adopt regulations, and invoke disciplinary action; and the State Gaming Control Board consisting of three full-time members and a staff of investigators, auditors, tax specialists, researchers, and financial experts.

Apart from its primary responsibilities—license granting, tax collection, and auditing—the Gaming Commission has authority over a wide variety of gaming-related matters. Regulation of the manner in which casino games operate is fairly limited, however, and the most conspicuous absence of regulation is in the area of game odds and payoff ratios. Slot machine payoff ratios may vary considerably among establishments. The only requirements in this regard are that the payoffs be posted on each machine and that any posted winning combination be achievable. Unlike the British system, Nevada has no prohibition against the double 0 (00) in roulette, the inclusion of which tips the odds more heavily in favor of the house. On the other hand, gaming regulations are stringent and comprehensive in such areas as the licensing of slot machine manufacturers and distributors, the licensing of private and publicly traded corporations, parimutuel wagering, the operation of race books, sports pools and wire services, and jai alai.

In the area of license granting and revocation, the Gaming Commission bases its decisions on the reports and recommendations submitted to it by the Gaming Control Board. Over the years, the board's functions have gradually been expanded. The board's duties today include the conducting of background investigations on applicants for gaming licenses; the enforcement of gaming laws and regulations, the collection of gaming taxes, and the inspection of premises where gaming is conducted or gaming devices are manufactured and sold. Chart 5-1 shows the organization and functions of the Gaming Control Board, the Gaming Commission, and the Gaming Policy Committee.

The first line of defense against the infiltration of casino interests by organized crime is the licensing investigation process. The Gaming Control Board conducts thorough background investigations into the personal and professional histories of applicants to determine their suitability for licensing and to uncover any possible links to organized crime figures that may be concealed through complex financial maneuvering. Each person who makes an application to invest money or hold an equity interest in a gaming establishment must submit a full disclosure of his personal and financial history. Investigators make personal, business, law enforcement, and credit reference checks to trace the applicant's history from his 21st birthday on. If the applicant is reputed to have organized crime affiliations, investigators attempt to determine the nature and extent of these affiliations or whether in fact they exist at all.

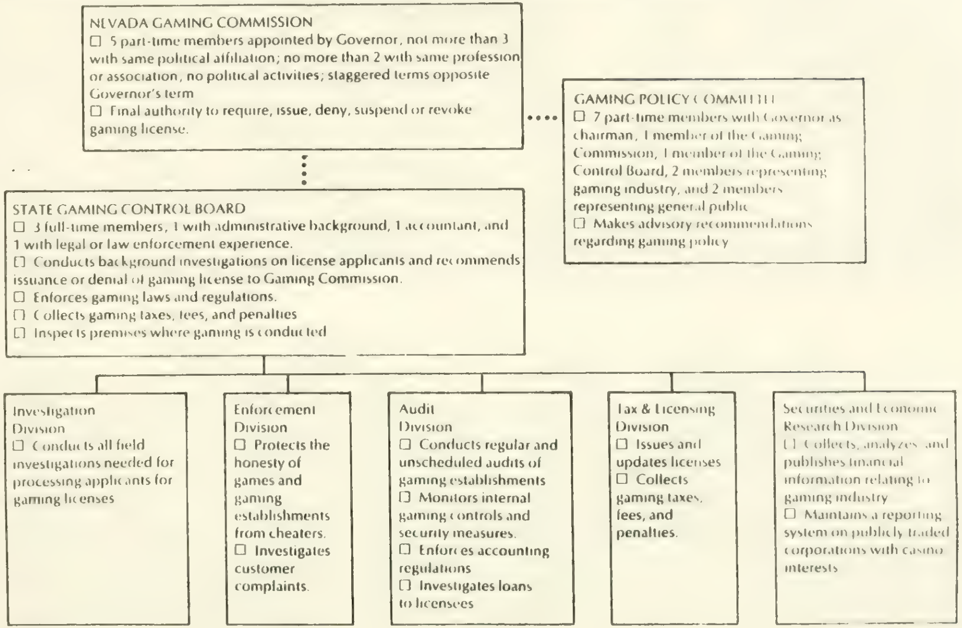
Two types of hearings are held—a public hearing conducted for each applicant and a private one conducted in cases where there is doubt as to the applicant's suitability for licensing. At the public hearing, the applicant has the opportunity to rebut any information he feels is inaccurate and he may be represented by counsel. Nevada law stipulates that the applicant must bear the entire cost of the investigation regardless of the outcome. The cost of a particularly long and involved investigation can exceed $100,000.

As thorough as this investigation process may be, it is not infallible, and the possibility exists that some hidden criminal investments may escape detection. If such interests or other irregularities are eventually uncovered, the Gaming Commission has the authority to suspend or revoke the gaming license, subject to challenge by the licensee which takes the form of a judicial review of the record rather than a trial de novo hearing. Gaming Commission decisions in this regard are rarely challenged, however.

There are a number of judicial restraints built into the licensing process that tend to complicate it. Some of the problems concern the handling of confidential informants, the right to counsel, self-incrimination privileges, and due process. Due process, for example, is required in gaming control as much as in other areas of governmental action. Proof of unsuitability for licensing is often difficult to obtain and document, and without such proof the license cannot be denied. However, the degree of proof sought by the Gaming Commission may be less than that required in a court of law in a criminal case. The Commission is empowered by law to set its own definition of unsuitability since the gaming license is considered a privilege rather than a legal right. Since criminal statutes do not define "organized crime" it is sometimes difficult to prove that an individual is a member of an organized criminal group. Sometimes businessmen associate with unsavory individuals, and it is necessary to make a distinction between a harmless association and one that would damage the image of Nevada or that may indicate hidden interest. Another problem for the license-granting authorities is that experienced gamblers often have backgrounds in illegal gambling when they apply for licenses.[7] Their backgrounds must be weighed against the kind of expertise and general integrity they bring to a gambling venture.

The enormous sums of money changing hands daily at every casino provide an irresistible lure to clever and dextrous cheaters who believe they can beat the system. The Enforcement Division of the State Gaming Control Board is responsible for the prevention, detection, and prosecution of cheating offenses (scams) perpetrated by casino employees and by gaming customers. In order to insure the integrity of games, the division conducts extensive undercover surveillance, develops informants within the industry, and encourages the industry to develop its own security systems. In addition, enforce-

CHART 5-1.—ORGANIZATION AND FUNCTIONS, NEVADA GAMING REGULATORY AGENCIES



NEVADA GAMING COMMISSION
☐ 5 part-time members appointed by Governor, not more than 3 with same political affiliation; no more than 2 with same profession or association, no political activities; staggered terms opposite Governor's term
☐ Final authority to require, issue, deny, suspend or revoke gaming license.

GAMING POLICY COMMITTEE
☐ 7 part-time members with Governor as chairman, 1 member of the Gaming Commission, 1 member of the Gaming Control Board, 2 members representing gaming industry, and 2 members representing general public
☐ Makes advisory recommendations regarding gaming policy

STATE GAMING CONTROL BOARD
☐ 3 full-time members, 1 with administrative background, 1 accountant, and 1 with legal or law enforcement experience.
☐ Conducts background investigations on license applicants and recommends issuance or denial of gaming license to Gaming Commission.
☐ Enforces gaming laws and regulations.
☐ Collects gaming taxes, fees, and penalties
☐ Inspects premises where gaming is conducted

Investigation Division
☐ Conducts all field investigations needed for processing applicants for gaming licenses

Enforcement Division
☐ Protects the honesty of games and gaming establishments from cheaters.
☐ Investigates customer complaints.

Audit Division
☐ Conducts regular and unscheduled audits of gaming establishments
☐ Monitors internal gaming controls and security measures.
☐ Enforces accounting regulations
☐ Investigates loans to licensees

Tax & Licensing Division
☐ Issues and updates licenses
☐ Collects gaming taxes, fees, and penalties.

Securities and Economic Research Division
☐ Collects, analyzes, and publishes financial information relating to gaming industry
☐ Maintains a reporting system on publicly traded corporations with casino interests

ment agents routinely, but on an unannounced basis, obtain cards and dice from casinos to examine them for signs of abnormality. They also examine thousands of slot machines each year.

Many cheaters perform like magicians, using sleight-of-hand techniques that are extremely difficult to detect. For this reason, the Gaming Control Board must depend heavily on informants. It is difficult as well to convict cheaters in court since in most cases there is no physical evidence.[8] In addition, the gaming authorities risk being sued for libel or slander when they disseminate information to casinos about suspected cheaters. For the same reason, gaming licensees may be reluctant to inform gaming authorities about persons they suspect of cheating. It is problems such as these that preclude the total elimination of cheating and theft from Nevada gambling, and even preclude an accurate estimate of the amount of cheating that actually occurs.

A different type of scam may occur on the management level within a casino. The process known as "skimming" was thought to have been fairly common when many of the casinos were controlled by organized crime. Skimming is the process whereby a portion of the casino revenues disappears from the official count. Skimmed casino money escapes taxation, and in cases where organized crime figures hold concealed interests, it can be returned to these persons as profit on their investments. The Audit Division of the Gaming Control Board attempts to prevent skimming and insure that the State is receiving its fair share of taxes from gaming revenue. Gaming regulations prescribe detailed internal control procedures that all casinos must follow. These procedures (discussed in greater detail later) cover the movement, counting, and monitoring of cash, chips, and credit markers at all points along the route between the customer's pocket and the casino's coffers. The Commission has found these controls to be generally effective and believes that the incidence of skimming has been significantly reduced during the past 10 years.

The Nevada gaming control agencies share many of the problems of other regulatory bodies—they must walk a fine line between too much regulation, which could harm and possibly destroy the industry, and too little regulation, which fosters the kind of abuse visited upon the State by Bugsy Siegal and those who followed him to Las Vegas. Nevada has used its 45 years of experience in the gaming field to develop a regulatory system that is sophisticated, efficient, and, on the whole, capable of maintaining the integrity of the gaming industry at an acceptable level.

Local Law Enforcement

The Nevada Gaming Control Act provides that, once having been licensed by the State, establishments that offer gaming must obtain licenses from the county and, if applicable, from the city or town in which they are located. Accordingly, city and county law enforcement agencies conduct background investigations on license applicants in conjunction with the State Gaming Control Board. Local authorities have the power to deny a license even though one may have already been granted by the State. Such a denial rarely occurs, however, since the State-level licensing procedure is more thorough and detailed than the local ones, and more likely to uncover wrongdoing if it exists.

Local law enforcement agencies also are responsible for enforcing the various gambling-related laws, such as those against cheating and the operation of unlicensed gambling. The Clark County (Las Vegas area) District Attorney's Office handles approximately 30 adult gambling prosecutions each year, involving, for example, possession or sale of cheating games and devices, such as those designed to make a slot machine operate without coins.

The State Gaming Control Board has statutory authority to maintain a list of "undesirables"—generally organized crime figures—who are to be barred from the premises of all casinos. Because these people traditionally have been attracted to Las Vegas, the Las Vegas Metropolitan Police Department keeps track of their interstate movements and of the movement of others who pose a potential problem for the industry, such as known cheaters. Other police departments in the State may also perform such functions but on a smaller scale. Testimony before the National Gambling Commission indicated that gambling-related problems are considered minimal and that only a small percentage of police workload consists of actual gambling cases.[9]

A larger portion of the workload of local police departments, prosecutors' offices, and courts is devoted to cases not easily linked to legalized gambling. It is difficult to establish the exact correlation between legal gambling and crime in Nevada, but it is known that a relationship exists. Of the total number of crimes committed in Las Vegas, the State's most populous city, a few, such as cheating in the casinos, are directly attributable to gambling. Certain white collar crimes, such as the use of stolen credit cards and the passing of worthless checks, also are prevalent in and around the casinos and in businesses that cater to tourists. Only a small percentage of crimes are committed by persons who have lost all their money gambling.

Although Las Vegas experiences higher-than-average murder, rape, robbery, and burglary rates compared with the country as a whole, its crime rates are roughly comparable to those of similar-sized cities and to the crime rates of other resort areas such as Daytona Beach and Ft. Lauderdale, Fla. (see table 5-6). Many criminals are attracted to resorts by the ready flow of cash and the high volume of tourism. Tourists often make easy targets for robbers, pickpockets, purse snatchers, and burglars. Twenty percent of the crime victims in Las Vegas are out-of-State visitors.

TABLE 5-6.—RESORT AREA CRIME RATES 1974

Area (SMSA)	Population	Rates per 100,000 population Total crime*	Violent crime	Property crime
Atlantic City, N.J. (Incl. Atlantic Co.)	178.507	6.111.2	706.6	5.680.4
Daytona Beach, Fla. (Incl Volusia Co.)	202.977	8.993 1	641.0	8 352.2
Ft. Lauderdale, Fla. (Incl. Broward Co.)	812,221	9,251.7	643.3	8,608.4
Las Vegas, Nev. (Incl. Clark Co.)	**311,153**	**9,317.9**	**891.8**	**8,426.1**
Miami, Fla. (Incl. Dade Co.)	1,385,889	9,130.2	1,205.3	7.924.9
Reno, Nev. (Incl. Washoe Co.)	**138,965**	**7,197.7**	**447.1**	**6,750.6**
Cities 100,000-250,000 pop.	15,488,000	7,111.0	600.0	6,511.0
Cities 250,000-500,000 pop.	10,773,000	7,755.4	853.4	6,902.0
U.S.A. Total	211,392,000	4,821.4	458.8	4,362.6

*Includes: (1) Violent crimes of murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault: and
(2) Property crimes of burglary, larceny over $50, and auto theft.
Source: FBI Uniform Crime Reports, 1974.

The round-the-clock lifestyle is another factor affecting crime rates in Las Vegas. With many of the casinos, restaurants, and bars remaining open 24 hours a day, there are many potential crime victims on the street—and away from their hotel rooms—at all times. Various other social and demographic characteristics are thought to contribute to crime in Las Vegas, among them, the comparative youthfulness of the population, the high rate of population growth and mobility, and the fact that many Las Vegas residents have histories of financial, marital, or criminal problems in the communities from which they came.[10]

Like many tourist and convention centers, such as New York, New Orleans, and San Francisco, Las Vegas has a fairly high rate of prostitution. Although illegal in Clark County, prostitution is generally accepted as a fact of life by local law enforcement officals, who believe, first, that they are powerless to eradicate it, and second, that an attempt to do so would constitute an inefficient use of available police resources. On the other hand, prostitution is considered a serious problem when it occurs in conjunction with such other crimes as robbery, larceny, assault, and narcotics use. Of the hundreds of people frequenting hotel and casino facilities at any given time, it is extremely difficult to single out the few who are prostitutes, and even more difficult to obtain the proof needed to take legal action. In recent years, the city has begun to attract significant numbers of conventioneers—mostly men—and the supply of prostitutes has kept pace with the demand. Although conceding that their premises may be used by prostitutes, hotel/casino owners and managers state emphatically that they receive no profits from the activity and do not encourage it.[11] The Commission found no evidence of collusion between prostitutes and hotel owners or managers.

Federal Involvement

The Department of Justice, the Internal Revenue Service, and the Securities and Exchange Commission are the primary Federal agencies concerned with Nevada gambling.

Three components of the Department of Justice—the U.S. Attorney for the District of Nevada, the Los Angeles Organized Crime Strike Force, and the FBI—are responsible for investigating and prosecuting violations of Federal gambling statutes as well as such nongambling violations as loansharking, credit fraud, stolen and counterfeit securities, counterfeit currency, and extortion.

The Los Angeles Organized Crime Strike Force was formed in 1970. The Strike Force believes that its involvement in Nevada has resulted in the strengthening of State statutes and regulations pertaining to gambling and the reduction of organized crime influence in the State. The conviction of several former owners of the Flamingo Hotel for skimming, for example, has resulted in the establishment of accounting procedures that make it more difficult to duplicate the Flamingo thefts. The recent conviction of some New York racketeers, attributable to the joint efforts of Federal and State authorities, led to increased controls on and accountability of junket operations and personnel. During his appearance before National Gambling Commission hearings in Las Vegas, the director of the Los Angeles Strike Force testified that organized crime can still be a silent partner in Nevada casinos but that the great majority of the legal gambling industry is not affected by it.[12] The U.S. Attorney's Office assists the Strike Force in all of its gambling prosecutions, but due to its small staff and the existence of the Strike

Force, its overall involvement in gambling cases is minimal.

Among the crimes investigated by the Las Vegas office of the FBI are two directly related to casino gambling—extortionate credit transactions and junketeering. The FBI reports that substantial amounts of loansharking money circulate in the Las Vegas area, and that some of this money originates from criminal groups in the East. The agency believes that its investigations have helped reduce but not eliminate the loansharking activity in Las Vegas.

Junkets to Las Vegas are an important source of revenue for some of the larger casino hotels. But sometimes junkets are organized for the purpose of defrauding the casino. As an example, a junketeer may bring a group of people to Las Vegas with the understanding that all the participants will be extended a certain amount of credit. When the players have used only a small portion of the chips they have been given, they cash in the remainder and leave. In such cases, the casinos have little hope of collecting on the credit extended. The FBI has investigated several instances of junket fraud, most of which have been much more complex than the type described above.

The Justice Department believes that its presence in Nevada has had a healthy effect on the gambling industry. On the whole, gambling industry spokesmen concur and emphasize their willingness to cooperate in Federal investigations, particularly since the casinos themselves are often the victims of crime.

The involvement of the Internal Revenue Service in Nevada is met with less enthusiasm. There is considerable antagonism between the IRS and some of the casinos. The IRS investigates suspected cases of income tax evasion. The subjects of its investigations may be the casinos themselves or private individuals to whom the casinos have extended credit. Some of the gaming licensees believe that IRS policies with respect to gambling are based on a lack of understanding of how the industry operates and an ingrained skepticism about the industry's willingness to report its income honestly. They believe, further, that the IRS practice of seeking information about casino patrons undermines the good customer relations that the casinos work so hard to establish. In testimony before the National Gambling Commission, gambling industry spokesmen also complained that the methods employed by the IRS to subpena information were both disruptive and costly.

Responding to Commission inquiries in this area, the IRS stated that the "cash flow" situation existing in the casino industry makes it extremely difficult to conduct effective audits. According to the Service, no internal control system can effectively prevent skimming unless there is a high level of integrity at all levels of management. The IRS believes that, historically, the casino industry has lacked such integrity, and it is not yet convinced that sufficient improvements have occurred. Finally, the Service stated that it is able to produce compliance with income tax laws by maintaining rigorous investigative and surveillance capability. The IRS declined to provide the Commission with specific information regarding ongoing activities designed to detect the skimming of unreported income, claiming that the release of such information would jeopardize these projects.

The jurisdiction of the Securities and Exchange Commission is limited to corporations whose stock is publicly traded. The SEC's principal concerns in this regard are the adequacy of public disclosure of income and interests and the fairness of securities markets. The SEC has told the Commission that it now considers properly managed casinos to be auditable entities.

INSIDE THE CASINOS

The modern Nevada casino bears little resemblance to its storefront predecessor of the 1930's and early 1940's. Most of the same games are still popular—21, craps, roulette—but the packaging has changed radically. Depression era gambling dens were slow to shed the trappings of illegality—the discreet entranceway; the shadowy, smoky rooms; and the lingering sentiment that there was something inherently disreputable about the entire business. All that has changed. No longer doubtful of their respectability, Nevada gambling houses today present an ostentatious spectacle to the world with their neon lights, opulent decor, 2,100 gaming tables, and 40,000 slot machines.

Casino management and operational procedures have also changed significantly over the years. Few businesses today operate with the sophistication, technology, and accountability found in Nevada casinos. Many of the refinements in operational procedures parallel developments in business and industry elsewhere, such as the application of management-by-objective techniques and computer technology. But some of the most significant changes in the industry's operation and regulation have been brought about by notoriety—by scandalous revelations that at one time or another seemed to cast the industry back into the disrepute from which it came. Had it not been for the influx of organized crime to Nevada following World War II, and the publicity generated by such underworld characters as Bugsy Siegal, Meyer Lansky, and Tony Conero, the effective accounting and regulatory system that now exists might never have been developed. With each new exposé of wrongdoing, the industry and the State have reacted by strengthening and refining the internal and external control mechanisms in an effort to prevent further transgressions of the nature uncovered.

The remainder of this section examines the modern Nevada casino—what it offers the public, its profitability, how it is managed and operated, its internal control mechanisms, and its auditability.

What the Casinos Offer

To many people, Nevada is synonymous with gambling. But according to a survey undertaken by the Las Vegas Convention and Visitors Authority, gambling is only one of the attractions of that city. Approximately one-third of the 1,419 people polled stated that gambling was the main reason for their trip to Las Vegas. Thirty-six percent stated that they came for the "entertainment," or shows, and 31 percent said they came for other reasons, e.g., for business conventions, for relaxation, or to visit friends.

There are approximately 120 small- and medium-sized casinos in Nevada that offer only gaming and produce approximately 3 percent of the total gaming revenue in the State. Ninety-five percent of the State's gaming revenue is produced by the 76 large casinos, each of which generates an annual gross gaming revenue in excess of $1 million. Most of the large casinos have restaurants, bars, and entertainment, and many are combined with hotels. In the last category are 20 "super casinos," those hotel/casino complexes located primarily on the Las Vegas Strip and offering many forms of recreation and entertainment in addition to huge gambling facilities.[13] All of the hotel/casinos have one or more show lounges or theaters that feature well-known entertainers. All have at least one restaurant. But apart from the basics—gambling, entertainment, food, and lodging—competition among the hotel/casinos has promoted the development of unique and unusual features and services. The MGM Grand Hotel's nostalgic Hollywood decor is a tourist attraction in itself. The Grand also offers jai alai frontons. Caesar's Palace hosts the Alan King Tennis Classic each year and altogether sponsors more television sports shows than any other single sponsor. The Stardust offers horse and sports betting on its premises. The Sparks Nuggett sponsors an annual Hereford bull sale in one of its showrooms. Most of the hotel/casinos also offer a variety of sports programs such as tennis, golf, and swimming, as well as such amenities as babysitting services, beauty salons, special recreational programs for children and teenagers, and convention facilities.

The 20 hotel/casino complexes contain almost half of the total number of games in the State and more than one-fourth of the slot machines found in gaming establishments statewide. The primary games are 21, craps, roulette, and baccarat.

Another casino game available in Nevada is the slot machine. At the end of 1975, there were 48,757 slot machines licensed in Nevada; these machines supplied 32.8 percent of the total taxable revenue derived by the State from gambling. Most casinos have large banks of slot machines, in different denominations (1¢, 5¢, 10¢, 25¢, 50¢, $1, and $5); they are also found in public areas such

TABLE 5-7.—PERCENT OF REVENUE PRODUCED BY GAMES AND DEVICES, FISCAL YEAR 1975

	Downtown Las Vegas		Las Vegas Strip		South Lake Tahoe**		Reno/Sparks	
	Units	%	Units	%	Units	%	Units	%
Games								
Twenty-one	267	21.3	586	29.1	224	30.9	363	26.3
Craps	52	16.3	135	31.0	30	11.8	50	9.9
Roulette	26	2.1	51	3.6	17	2.7	24	1.9
Baccarat	11	1.4	45	11.3	8	2.7	17	1.2
Other	19	1.1	35	1.2	5	1.0	7	0.4
Totals	375	42.2	852	76.2	284	49.1	461	39.7
Devices								
5¢ slot machine	5,491	27.4	7,161	9.5	2,688	14.4	4,875	18.6
10¢ slot machine	569	3.1	969	1.4	847	5.9	1,414	6.4
25¢ slot machine	955	9.2	1,860	4.6	989	10.5	1,358	10.7
50¢ slot machine	60	0.5	90	0.2	153	2.4	224	2.4
$1 slot machine	132	2.1	235	1.0	141	4.6	297	6.0
Pinball machine	59	0.4	—	—	—	—	3	0.0
Other	351	1.6	429	1.2	69	1.4	84	1.0
Totals	7,617	44.3	10,744	17.9	4,887	39.2	8,255	45.1
Other Gaming								
Keno	12	9.6	21	3.6	10	9.2	24	13.3
Poker	40	3.3	75	1.8	11	1.2	2	0.7
Miscellaneous*	15	0.6	17	0.5	7	1.3	28	1.2
Totals	67	13.5	113	5.9	28	11.7	54	15.2
Grand Totals	8,059	100.0	11,709	100.0	5,199	100.0	8,770	100.0

*Bingo and panguingui

**Includes figures for Douglas County.

Source: Nevada Gaming Control Board.

as drugstores, grocery stores, and the McCarran airport in Las Vegas. The proprietors of these machines may have as many machines as they want; each machine must be registered with the State Gaming Commission and that registration must include a statement of the percentage of payout. The payouts returned to the players approximate 85 percent of the volume played, with the range varying from 78 percent to 97 percent; the higher payouts are designed to increase the amount of play. The payout ratio, which is not subject to State regulations, is set by each proprietor.

In contrast, the gaming board of Great Britain has placed strict limitations on the availability and location of slot machines; for example, casinos are allocated no more than two "fruit"—i.e., slot—machines. All clubs, including sporting and drinking clubs, are permitted to have up to two machines. Because of the popularity of this form of gambling in Great Britain, these restrictions are intended to limit play by the public. Further, it is required that the percentage of payout be posted on the machine.

In the Bahamas, as in Nevada, large banks of slot machines are permitted in the casinos; however, permission must be obtained from the gaming board before the number of machines can be increased at any one place.

Table 5-7 shows the number of games and slot machines and the percentage of revenue produced by each in four areas of Nevada—Downtown Las Vegas, the Las Vegas Strip, South Lake Tahoe, and Reno/Sparks. Twenty-one, craps, and the 5¢ slot machine are the top three revenue

TABLE 5-8.—INCOME VERSUS EXPENSES,* FISCAL YEAR 1975

	Percentages			
	Downtown Las Vegas	Las Vegas Strip	South Lake Tahoe***	Reno/ Sparks
Income				
Casino department	70.1	58.3	64.3	67.5
Rooms department	6.5	13.6	6.3	5.1
Food department	11.8	13.9	15.7	14.1
Beverage department	8.1	10.8	11.6	10.7
Other revenue-producing departments	3.5	3.4	2.1	2.6
Total Revenues	100.0	100.0	100.0	100.0
Expenses				
Direct expenses	42.8	40.6	34.4	41.3
Cost of goods sold	8.1	7.3	10.1	9.3
General and administrative expenses				
Advertising and promotion	2.8	1.7	4.5	4.7
Complimentaries	9.0	11.4	8.1	7.9
Junket expenses	—	5.9	0.7	0.0
Depreciation—buildings	1.1	1.4	1.3	0.7
Depreciation and amortization—other	1.8	2.0	1.7	2.0
Real estate taxes	0.8	0.7	0.7	0.6
Other taxes & licenses	0.1	0.1	0.2	0.2
Music & entertainment	1.0	7.2	5.0	3.2
Rent of premises	2.5	0.5	1.4	1.4
Payroll taxes & employee benefits	1.3	1.1	2.4	1.4
Salaries—officers/owners	0.8	0.3	0.7	0.9
Salaries—other employees	4.7	5.3	8.3	6.7
Miscellaneous	7.3	7.8	7.8	8.3
Total Expenses	84.1	93.3	87.3	88.6
Net Operating Income	15.9	6.7	12.7	11.4
Dollar Values				
Aggregate revenue	$212,956,000	$992,711,000	$184,344,000	$234,774,000
Aggregate net operating income**	$ 33,860,000	$ 66,511,000	$ 23,402,000	$ 26,764,000
Average gross revenue per casino**	$ 14,197,000	$ 35,454,000	$ 30,724,000	$ 13,043,000
Average net operating income per casino**	$ 2,257,000	$ 2,375,000	$ 3,900,000	$ 1,487,000
Number of Locations	15	28	6	18

*Casinos with annual gross revenues of $1 million or more.
**Before extraordinary items and Federal income taxes.
***Includes Douglas County.
Source: *Nevada Gaming Abstract*, 1975 Supplement, Nevada State Gaming Control Board.

producers in these areas. In the smaller communities such as Elko, Reno, and Tahoe, keno and bingo account for a higher percentage of the total gaming revenue than they do on the Strip.

Casino Profitability

An investor looking for get-rich-quick schemes and easy money is bound to be disappointed by the realities of the casino gambling business. Although the successful casinos provide a high rate of return on their investments, the profits of the industry as a whole are less spectacular. Table 5-8 compares fiscal year 1975 income versus expenses for four areas of Nevada—Downtown Las Vegas, the Las Vegas Strip, South Lake Tahoe (Douglas County), and Reno/Sparks. By law, the statistics for individual establishments must be kept confidential. The aggregate figures contained in this table thus conceal the fact that some of the casinos may actually operate at a loss, as was the case with some of the Hughes Tool Co. casino holdings from 1968 to 1971.

Although gaming is the primary source of revenue in all four of the locations shown in table 5-8, the ratio of gaming to total revenue is somewhat lower on the Las Vegas Strip, where room revenues are significantly higher than at the three other locations. In the "expenses" category, the Strip casinos allocate a higher percentage of their operating budgets than the other locations to the provision of complimentary items (food, rooms, drinks), a result of the Strip casinos' efforts to attract the high rollers, many of whom come to Las Vegas on junkets.

Comparing the average gross revenue per casino among the four locations indicates that the Lake Tahoe establishments slightly outearned the Strip casinos during fiscal year 1975. The most likely explanation is that competition is less keen at Lake Tahoe than on the Strip, where funds available for expansion may be nearly exhausted.

Table 5-9 shows the percentage return (before Federal taxes) on equity capital investments by the casinos in the same four areas as above for fiscal years 1967 through 1975. The figures in table 5-9 were derived by dividing the net operating income of the casinos by their net (equity) capital (assets minus liabilities). For example, if the total value of a casino were estimated at $5 million after all creditors had been paid, and that casino produces a net operating income of $1 million in a given year, then the percentage return on equity capital for that year would be 20 percent before Federal taxes. If the casino were a corporation, as many are, the rate of return on investment after Federal taxes would be about half that amount, or 10 percent.

On the Las Vegas Strip, the investment returns ranged from 14.2 percent to 58.5 percent, or an average of 26.3 percent before Federal taxes and 13.2 percent after taxes. This rate is comparable to that of high-seller concentration industries in the manufacturing sector.[14] There are a number of explanations for the sharp year-to-year fluctuations in the Las Vegas Strip figures. According to one economist, the depressed state of the economy has affected the Strip casinos in particular because of their heavy reliance on big spenders, many of whom have become reluctant to gamble away huge sums of money.[15] Other factors cited included the intensification of competition caused by the addition of new hotels, and the failure of management to hold down various expenses in light of the unfavorable economic conditions, particularly the expenditures for "complimentaries."[16]

TABLE 5-9.—RETURN ON EQUITY CAPITAL,* GROUP I CASINOS, FISCAL YEARS 1967-1975

	Percentages			
Fiscal year	Las Vegas Strip	Downtown Las Vegas	South Lake Tahoe**	Reno/ Sparks
1967	24.1	20 2	(1)	21.1
1968	16 6	15.9	(1)	20.9
1969	58.5	42.5	29.1	23.4
1970	24.8	37.2	26.8	21.5
1971	14.2	36.4	32.7	19 8
1972	20.0	44.7	27.5	28.5
1973	31.9	44.0	32.6	35.9
1974	24.4	42.8	32.3	34.1
1975	22.1	33.5	25.9	37.5

*Before Federal income taxes and extraordinary items
**Includes all of Douglas County.
(1) Computations not meaningful
Source: *Nevada Gaming Abstract* and 1972, 1973, and 1974 Supplements published by the State Gaming Control Board.

HOW THE CASINOS OPERATE

In many respects, the casinos of Nevada operate like any other business that has a product or service to sell. What makes casinos unique is that their principal stock in trade is cash, and that dozens of transactions may take place before a single "sale" is complete. A customer may enter a casino with $500 in his pocket. Two hours later he may have only $300; after 3 hours he may have $600. The sale is complete when the customer leaves the casino with either more or less than the $500 he had intially.

Complex procedures have been developed to keep an accurate account of the thousands of exchanges of cash, chips, and credit that take place daily between the casino and its customers. Many of these procedures are in the form of State regulations designed to insure that all credit transactions are properly recorded, that revenues are accurately counted, and that the State receives its fair share of the proceeds.

The larger casinos offer a number of services in addition to gambling—namely, food, drinks, entertainment, and rooms. All of these operations are interrelated, and the quality of service offered in one division can significantly affect the volume of business in the others.

Although no two casinos operate in exactly the same manner, State regulations, similarities in services offered, and standard business practices tend to minimize operational differences. The description of the internal casino organization and operation that follows is based on hearing testimony, on information supplied to the Commission at a presentation by one of the large Las Vegas Strip casinos, and on sections of the State-prescribed accounting procedures. The casino described below is not modeled after a particular hotel/casino but represents, instead, a selection of features from several of the Strip's larger gaming establishments.

The Golden Grotto Casino

The Golden Grotto is a fictitious hotel/casino complex with 1,100 rooms, 2 show lounges, 4 restaurants, an 18,000-square-foot casino, 25,000 square feet of convention facilities, and 2,500 employees. In 1975, its gross revenue from all sources exceeded $77 million. Approximately 60 percent of that amount consisted of gaming revenue. Its net operating income for 1975 was [illegible] million. The Golden Grotto is a corporation whose stock is publicly traded and whose assets are valued at $99 million.

The Casino Department at the Golden Grotto consists of three divisions—Operational, Marketing, and Financial. The Operational Division is responsible for the operation of all casino games, and the hiring and assignment of personnel to staff gaming positions. The Marketing Division's responsibilities include the granting of credit, customer relations, coordination of group activities such as junkets and conventions, identification and handling of VIP customers, supervision of complimentary provisions, and supervision of the company's branch office. The Financial Division is responsible for the casino's system of internal controls and for insuring that all revenue is properly recorded. Chart 5-2 shows the organization and staffing of the Casino Department.

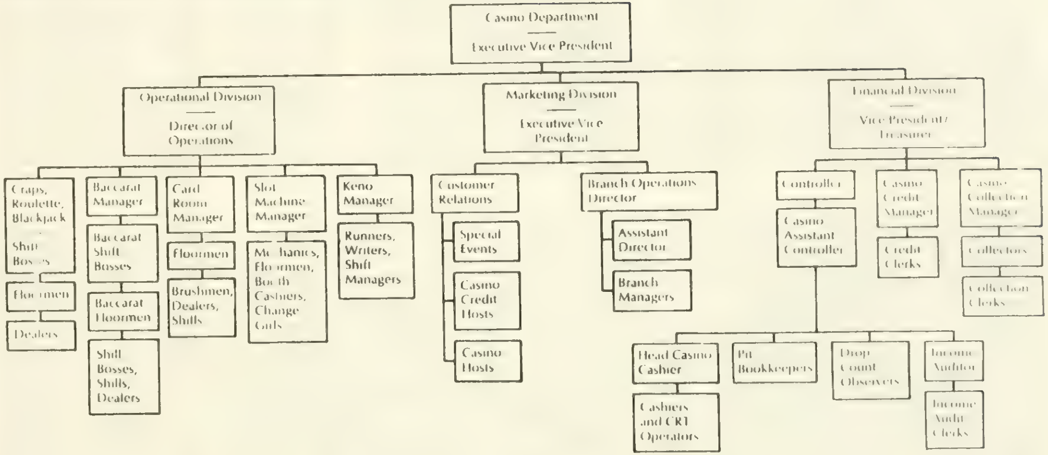
CREDIT. One of the most important aspects of the casino's business involves the granting of credit to casino customers. At the Golden Grotto, one-third of all gaming transactions involve some form of credit—credit cards, checks, or markers (IOU's). Registered guests at the hotel and other patrons are generally permitted to cash checks in amounts not exceeding $500, provided they have the proper credit cards and personal identification. Other persons who wish to gamble on credit or to exceed the $500 amount must complete a credit application and furnish certain personal and financial information to the casino. The casino credit manager verifies the information on the application by contacting the customer's banks and through the use of a central credit bureau, a commercial enterprise that supplies the casinos with information concerning the customer's previous gambling experience throughout Nevada and in other areas of the world. On the basis of this information, the customer's request for credit will either be granted in full, in a lesser amount, or denied completely. In cases where particularly large sums of credit are requested, more extensive checks are conducted. In some cases, customers request an extension in the amount of credit they are normally allowed. Such extensions, if granted, are generally limited during a single visit to 25 percent over the customer's original limit. Daily computer printouts are issued showing all changes in credit limits, the amount of unused credit available to each customer, the frequency of visits to the casino, and the promptness of payment.

When a customer first establishes credit at the casino, he is asked how he intends to settle his obligations. Many customers pay their entire debt upon their departure; some request that their markers be converted to a bank check to be deposited upon their departure. Still others request that a statement be mailed to them at their home or business. Debts not paid upon the customer's departure are handled by the casino's collection department, which employs standard collection techniques such as billing and telephoning to remind the customer of his obligations. In the case of delinquent debts, personal visits may be made or telegrams sent requesting payment. Accounts that have not been settled within 6 months are sent to a collection agency or to an attorney who will attempt to make the collection. (Nevada law stipulates that gambling debts are not legally enforceable in that State.) If these methods fail, the debts have to be written off as uncollectable. Approximately 3 percent of all credit extended by the casino results in bad debts. The casino has recently designed new computer printouts that show the State of residence of the customer, the casino employee who initially granted the credit, and various other information designed ultimately to minimize these losses.

Once a customer has established his credit rating, he may, upon approval of the appropriate pit boss, receive cash or chips on credit during the course of actual play.

COMPLIMENTARIES. The Golden Grotto, like most of the Strip casinos, spends a large portion of its operating budget (about 15 percent) on the provision of complimentary rooms, drinks, food, entertainment, and air transportation to its preferred customers—the high rollers. The Strip casinos depend upon a steady flow of upper-middle class and wealthy customers. Without such a clientele, they could not maintain the high quality of entertainment, food, and other services for which they have become famous. The casino's complimentary policy is continually scrutinized to determine whether the costs involved are producing the desired results. Formal written policy specifies who may receive complimentaries, how much they may receive, and by whom such privileges may be granted. The activities of customers who have received complimentaries are closely monitored, and the cost of the complimentaries is measured against the value of the

CHART 5-2.—CASINO DEPARTMENT ORGANIZATION AND STAFFING


Casino Department
Executive Vice President
Operational Division
Director of Operations
Craps, Roulette, Blackjack
Shift Bosses
Floormen
Dealers
Baccarat Manager
Baccarat Shift Bosses
Baccarat Floormen
Shift Bosses, Shills, Dealers
Card Room Manager
Floormen
Brushmen, Dealers, Shills
Slot Machine Manager
Mechanics, Floormen, Booth Cashiers, Change Girls
Keno Manager
Runners, Writers, Shift Managers
Marketing Division
Executive Vice President
Customer Relations
Special Events
Casino Credit Hosts
Casino Hosts
Branch Operations Director
Assistant Director
Branch Managers
Financial Division
Vice President/ Treasurer
Controller
Casino Assistant Controller
Head Casino Cashier
Cashiers and CRT Operators
Pit Bookkeepers
Drop Count Observers
Income Auditor
Income Audit Clerks
Casino Credit Manager
Credit Clerks
Casino Collection Manager
Collectors
Collection Clerks

chips purchased, the length and frequency of the customer's gambling activities, and the dollar amounts wagered. This information, along with additional data supplied by a computer, is translated into a rating of the customer's overall profitability. If the cost of the complimentaries becomes excessive in relation to the customer's gambling activity, the customer may be politely advised that he risks losing his complimentary privileges. If such a customer is part of a group, the group organizer will be asked not to reinvite the guest. The cost of the complimentaries is recorded as an expense of the Casino Department and as revenue for the departments providing the service. Approximately 11 percent of the restaurant and hotel revenues consist of complimentaries charged to the casino.

JUNKETS. Junkets—organized group trips to Nevada casinos—are an important source of income for the Golden Grotto and some of the other Strip casinos. They account for approximately 13 percent of the hotel's occupancy rate and are particularly useful along with conventions in filling the hotel and casino during those times of the year when business is normally slower. Not all of the Strip casinos actively promote junket business, however, partly because of the difficulty of operating them profitably. Since junket participants receive free rooms, food, and beverages, the casino stands to lose money unless the participants gamble fairly heavily. No one is invited on a junket unless the casino has assured itself of the customer's ability (if not his intention) to satisfy the gambling and credit obligations that are implicit in the invitation. Theoretically, out of each $1,000 a customer loses through wagering, the casino's profit is about $200, or 20 percent. Thus, for a junket that costs the casino $500 per customer, each participant must gamble at least $2,500. Junket customers who gamble too conservatively are not reinvited.

Establishments that accept junkets are always alert to attempts by junket operators to defraud the casino. As discussed earlier, some casinos have incurred heavy losses as a result of clever and complex junket schemes. In some cases, the organizer alone is responsible for the fraud; in others, the participants are accomplices. Because such schemes generally involve interstate travel, the Federal Government—principally the FBI—is actively involved in investigations of suspected junket fraud.

TIPPING. Casino employees are permitted to accept tips from gaming customers. However, as a precaution against collusion between individual employees and customers, all gratuities are combined into a single pool and divided equally among employees. It is not uncommon for dealers, croupiers, and other gaming employees in the larger casinos to earn more from tips than from their basic salaries.

INTERNAL CONTROL. The methods a casino uses to count its winnings, insure the integrity of its employees, and monitor the movement of cash, chips, and credit comprise its system of internal control. State gaming regulations require that casinos submit for approval and thereafter follow the specific accounting and internal control procedures they have developed. These procedures must conform with standards set by the American Institute of Certified Public Accountants.

The cashier's cage is the hub of the casino operation. It is accountable at any time of the day for a specific inventory consisting of cash and chips, credit markers, fill requisitions (showing chips brought to tables), and credit slips (showing chips removed from tables).

A unique aspect of casino operations is that the determination of "sales" (wins or losses) must be made on the basis of an inventory accounting rather than on the basis of individual sales transactions. Cash and credit markers received at each gaming table are deposited by the dealer into a locked box attached to the table to which no one in the pit has access. Security guards remove the box at the end of the shift and take it to the "count room." In order to determine how much money has been won or lost, cash, chips, and credit markers from each table are inventoried for each 8-hour shift and compared against the beginning inventory of chips for each table (see table 5-10). On this basis, a win/loss percentage is derived. In order to insure the accuracy of the inventory, detailed procedures have been developed to control all of the different types of transactions possible at the gaming tables— e.g., the exchange of cash for chips or credit, the processing of fill and credit slips, and the movement of cash from the tables and slot machines to the count room.

TABLE 5-10.—CASINO INVENTORY FORMULA, ROULETTE TABLE R-1

Beginning inventory of chips at table R-1	$1,000
Plus fills (chips brought to table from cage)*	+$ 500
	$1,500
Minus credits (chips brought from table to cage)*	−$ 600
"Inventory Available"	+$ 900
Inventory of chips at table at end of shift	+$ 800
Minus "Inventory Available"	−$ 900
Change in chip inventory	−$ 100
Plus cash in box (at table) and credit markers	+$ 400
Net win or loss	+$ 300
Win or loss percentage	+33 percent

*During the course of play, the table may require additional chips if it has been losing fairly steadily. When the table wins a great deal, overflow chips are returned to the cage.

The following are the principal features of the Golden Grotto's system of internal control.

1. Count room. The count room at the Golden Grotto is completely glass enclosed. The entire counting process can be watched by casino personnel as well as by State regulatory agents, IRS, or other government personnel.

Access to the count room is strictly limited. State regulations stipulate that at least three persons must participate in the counting process. Not more than two of them may be licensees, and not more than one may own more than 5 percent interest in the gambling establishment. At the Golden Grotto, the three counters are in completely different income brackets a situation the management believes minimizes the potential for collusion among the counters. Only two counters are required at smaller establishments.

2. Employees. The casino makes a special effort to employ personnel who are reliable and honest. On the job, employees' actions are constantly monitored. Dealers are watched by floormen, floormen by pit bosses, pit bosses by shift bosses, and shift bosses by the casino manager, and all are watched by overhead observers on enclosed catwalks (the "eye in the sky"). This pyramidal system of "people watching people watching people" makes large-scale theft difficult to engineer. All gaming employees are required to have a registration card indicating that their photographs and fingerprints are on record with either the city, county, or Gaming Control Board.

3. Closed-circuit television. The Golden Grotto has installed a sophisticated videotape system with cameras placed at strategic locations around the casino. The cameras can zoom in on action at any of the gaming tables as well as the count room and the cage area. Videotape is stored for later viewing in cases where irregularities are suspected. The cameras help deter cheating by customers and employees

4. Armed guards. The casino employs a team of armed security guards who protect the movement of cash and chips in the casino.

5. Document control. A series of prenumbered forms is used for credit and other transactions. Several persons must participate in each transaction, and all transactions are reviewed by various departments, including the casino's internal auditing section.

6. Management reports. Daily computer printouts are available showing win/loss figures for each gaming table and slot machine. Gross variations from the average performance of a particular table or machine may indicate the existence of fraud or the need for further surveillance of the table or slot machine in question

CASINO AUDITABILITY

One of the most frequently asked questions concerning Nevada casinos is: Are they auditable? State regulatory and IRS agents have more than a passing interest in this issue. Both the State and the Federal Government are determined to insure that they receive their fair share of gambling taxes. In some of the larger casinos, ever-present IRS agents scrutinize every document and record available. In addition to the tax concern, the State is interested in preventing the appearence as well as the fact of wrongdoing in the areas of recordkeeping and income reporting. State auditors conduct regular and unscheduled audits of casino records and monitor the casino's internal control system. State accounting regulations prescribe specific financial reporting procedures for casinos

State regulations also require casinos to contract for the services of independent, outside auditors to examine their financial statements. The National Gambling Commission heard testimony from a member of an independent accounting firm with experience in auditing casino operations. The witness testified that, in his opinion, a casino that maintains proper records and reliable administrative and control procedures is as auditable as any other business enterprise with similar attributes.[17]

With respect to casino operations, the area of greatest concern to the auditor is verification of gaming revenue and other receivables. The auditor must be able to determine how much money the casino has actually collected and whether all of the revenue earned but not yet collected (credit) has been properly recorded. Proper recordkeeping and an airtight system of internal control are the key to the casino's auditability.

In the past decade, significant progress has been made in updating and improving accounting and internal control procedures within the casinos. State accounting regulations have been strengthened. The introduction of modern management principles has helped improve casino operations as well as foster honest income reporting. For example, with each department of a hotel/casino now expected to turn a profit, there is no longer the intense pressure on the casino to make up in gaming revenue what the hotel and restaurant have lost by offering casino patrons below-cost rooms, entertainment, and food values. This outdated marketing technique proved too costly for some of the casinos, which attempted to increase their gambling profits by failing to declare them. The acquisition of casino properties by publicly traded corporations also has tended to encourage proper recordkeeping.

Continuing refinements in State gaming regulations, improvements in casinos' internal control systems, and advances in computer recordkeeping technology should further enhance the auditability of gaming establishments and eventually dispel the skepticism that lingers in some quarters as to the integrity of casino operations.

GAMBLING SURVEY RESULTS

The National Gambling Commission survey of American gambling behavior and attitudes included a number of casino-related topics, among them the demographic characteristics of casino bettors, bettors' perceptions of the consequences of casino gambling, their reasons for gambling at casinos, and their views on legalization. The survey also included a special section on Nevada designed to measure the impact of legal gambling —particularly casinos—on people who have ready access to it.

Twenty-seven percent of the total number of people surveyed said they had gambled at a casino sometime in their lives. Ten percent stated that they gambled at a casino in 1974, which translates to a projected figure of 14 million people nationwide who gambled at a casino—legal or illegal—that year. The majority gambled in Nevada; about a third went to casinos outside the United States.[18]

Following are additional highlights of the survey findings. (NOTE: The data in tables 5-11 through 5-15 exclude Nevada residents unless otherwise indicated.)

- Demographics (table 5-11). Proportionately more men than women, and more blacks than whites, gambled at casinos in 1974. Casino gambling was most popular among persons aged 25 to 64; participation dropped sharply after age 64. Almost a third of the residents of western States gambled at a casino in 1974, compared to 9 percent of those in the Northeast and 2 percent of those in the South. Casino gamblers were generally in the middle and upper income brackets and were well educated, having either some college or a college degree.
- Reasons for Gambling (table 5-12). The most frequent reason given for gambling at a casino was to have a good time. A significant number of respondents also cited the opportunity to make money, but only a very small number—7 percent—cited the chance to get rich as a reason for their gambling. The most frequent reasons given for not betting at a casino were "don't know about it," "not interested," and "other things to do."
- Consequences of Casino Gambling (table 5-13). Respondents were asked to judge the consequences of casino gambling. The majority—particularly Nevadans—cited the creation of more jobs and the generation of more money to run government as the most important positive consequences. The negative consequences most frequently cited were that casinos induce people to gamble more than they can afford, that they influence children to gamble, and that they attract racketeers. Nevada residents placed less emphasis on the latter two consequences than did respondents overall.
- Law Enforcement (table 5-14). Survey participants also were questioned about the law enforcement consequences of legal gambling. While Nevadans generally rated casinos more favorably than respondents overall, the majority, including Nevada residents, stated that casinos caused no change in peoples' respect for law or in the levels of police and political corruption.
- Legalization (table 5-15). Almost 75 percent of all casino bettors and 85 percent of Nevada residents surveyed said they favored legalization of casinos and slot machines. But more than half of all respondents (bettors and nonbettors combined) expressed their opposition to legalized casinos.

TABLE 5-11.—DEMOGRAPHIC CHARACTERISTICS AND CASINO BETTING

	Percent of total sample who bet at casinos in 1974
Total Sample	9.6
Sex	
Male	10.5
Female	8.9
Age	
18-24 years	6.4
25-44 years	12.0
45-64 years	10.2
65 and over	3.5
Region	
Northeast	9.3
North central	4.9
South	1.9
West	31.1
Family Income	
Under $5,000	4.1
$5,000-$10,000	8.3
$10,000-$15,000	6.4
$15,000 and over	14.2
Education	
Less than high school	4.3
High school graduate	8.4
Some college	14.9
College graduate	15.9
Race	
White	9.4
Nonwhite	11.0

TABLE 5-12.—REASONS FOR BETTING OR NOT BETTING AT CASINOS

	Percent
Reasons for betting	
To have a good time	[illegible]
For excitement	47
Challenge	35
To make money	35
To pass the time	23
Something to look forward to	21
Chance to get rich	11
Net activity reasons	94
Net money reasons	43
Reasons for not betting	
Not available	48
Don't know about it	27
Not interested	26
Other things to do	23
Don't think about it	22
Odds against you	22
Don't want to lose money	16
Don't have the money	16
Waste of money	14
Illegal	10
Not lucky	8
Net money reasons	53
Net activity reasons	55
Net moral reasons	8
Net legal reasons	12

Note Respondents chose one two, or three reasons from a list of 11 reasons provided for betting and 18 reasons provided for not betting

TABLE 5-13.—BETTORS' ATTITUDES TOWARD CASINOS

	Percent	
	Nevada residents	National sample
Positive Consequences:		
More jobs	88	69
More money to run government	87	66
Less money for organized crime	46	45
More chance for the common man to get rich	22	18
Negative Consequences:		
More people working less because they are gambling	21	43
More chance that children will be influenced to gamble	42	66
More racketeers connected to it	41	61
More people gambling more than they can afford	78	76

TABLE 5-14.—BETTORS' PERCEPTIONS OF LAW ENFORCEMENT CONSEQUENCES OF CASINO GAMBLING

	Percent	
	Nevada residents	National sample
Respect for Law:		
More	36	17
Less	7	20
No change	57	62
Police Corruption:		
More	13	26
Less	25	16
No change	62	53
Political Corruption:		
More	32	32
Less	17	10
No change	51	51

Note. Where responses do not add up to 100 percent, the remainder provided no answer

TABLE 5-15.—ATTITUDES TOWARD LEGALIZATION OF CASINOS AND SLOT MACHINES

	Percent		
	Nevada residents	Casino bettors	Total sample
Casinos:			
Favor legalization	85	74	41
Do not favor legalization	5	24	53
Don't care/don't know	10	2	6
	100	100	100
Slot Machines:			
Favor legalization	84	68	40
Do not favor legalization	5	28	54
Don't care/don't know	11	4	6
	100	100	100

The Impact of Legalized Gambling in Nevada

Survey results indicate that the widespread availability of legal gambling—particularly casinos—generates measurably higher rates of participation by Nevada residents.

Seventy-eight percent of those questioned in Nevada bet on something in 1974, compared to 61 percent of the national population (table 5-16). The incidence of betting is approximately 10 to 20 percent higher in Nevada among almost all demographic groups. The survey results tend to support the arguments of those who claim that establishing Nevada-type gambling in densely populated areas will foster participation by those who can least afford it. Although participation rates among all income categories increase as income increases, there are proportionately many more bettors among Nevada residents earning less than $5,000 a year than among the general population of bettors in the same income category. The same phenomenon is reflected with regard to education levels.

In addition, gambling is much more regressively related to income in Nevada than in the United States as a whole (table 5-17). Gambling is said to be regressive if people in the lower income groups spend a higher percentage of their income on it than people in the higher income categories. If the percentage of income spent on a particular type of gambling increases as income increases, that activity is said to be progressive. The most significant difference in regressivity between Nevada and the United States as a whole occurs with respect to casino gambling. Residents of other States must travel to Nevada before they can participate, and the high cost of travel precludes participation by most low-income people. This gives casino gambling a progressive relationship to income for participants outside of Nevada. But because casinos are accessible to Nevadans in all income groups, they become highly regressive within the State. Even when travel costs are not a factor, as in the case of bingo, gambling tends to be more regressive in Nevada. These findings seem to suggest that low-income people are more readily attracted to gambling than are the more wealthy members of the community. The expanded popularity of gambling that accompanies extensive legalization thus appears to increase the regressivity of gambling as a revenue source. On the whole, as table 5-17 shows, gambling expenditures in Nevada are far more regressive than the average sales or excise tax.

Survey findings also indicate that the widespread availability of legal gambling causes an increase in the incidence of compulsive gambling behavior.[19] Approximately 2.62 percent of Nevadans were classified on the basis of their reported gambling habits as probable compulsive gamblers, and an additional 2.35 percent were classified as potential compulsive gamblers. This means that there are more than three times as many probable compulsive gamblers in Nevada than among the general population and about the same number of potential compulsive gamblers (table 5-18). Additional survey data indicate that 93 percent of the probable compulsive gamblers in Nevada, compared to only 15 percent nationwide, wagered more than 10 percent of their family income on legal forms of betting.

TABLE 5-16.—COMPARISON OF DEMOGRAPHIC CHARACTERISTICS OF BETTORS, NEVADA RESIDENTS AND NATIONAL SAMPLE

	Percent who bet in 1974	
	Nevada residents	National sample
Total Sample	78	61
Male	87	68
Female	70	55
White	79	62
Nonwhite	66	52
18-24 years	75	73
25-44 years	86	69
45-64 years	80	60
65— years	41	23
Income under $5,000	63	24
$5,000-$10,000	74	51
$10,000-$15,000	78	69
$15,000+	85	74
Married	80	62
Divorced/separated	78	71
Widowed	54	18
Never married	78	70
Did not graduate high school	71	44
High school graduate	82	66
Some college	80	72
College graduate	78	79

TABLE 5-17.—REGRESSIVITY OR PROGRESSIVITY BY TYPE OF GAMBLING, NEVADA RESIDENTS AND NATIONAL SAMPLE

	Index of progressivity (P) or regressivity (R)	
Game	Nevada residents	National sample
Number	–	.44(R)
Sports cards	(s)	.40(R)
Lottery	—	.31(R)
Bingo	.58(R)	.30(R)
Horse books	(s)	.27(R)
Horse tracks	(s)	.17(R)
Off-track betting parlor	.56(R)	.07(R)[a]
Slot machines	.41(R)	
Keno	not asked	.26(P)[b]
Casino tables	.46(R)	
Legal sports betting parlors	.36(R)	—
Illegal sports books	(s)	.29(P)
All games combined	.42(R)	17(R)
For comparison: all sales and excise taxes	.59(R)	

[a] New York OTB only

[b] Figure represents slot machines, keno and casino tables combined

(s) = Sample too small to permit reliable estimate

Table 5-19 shows what the increased participation rates among Nevada residents mean in terms of the popularity of individual types of gambling and the average amounts wagered on each. Legal horse and sports betting play only a minor role, both in comparison to other types of gambling in Nevada and to participation rates nationwide. A comparison of legal and illegal participation indicates that the widespread availability of many forms of legal gambling causes decreased participation in the illegal varieties. Participation in illegal gambling is almost three times greater among the general population than among Nevada residents. Since the survey was conducted before the 10 percent Federal excise tax on legal sports and horse wagers was reduced to 2 percent, the incidence of this type of illegal wagering in Nevada could well be lower today than table 5-19 indicates.[20]

TABLE 5-18.—COMPARISON OF COMPULSIVE GAMBLING, NEVADA RESIDENTS AND NATIONAL SAMPLE

	Percent			
	Potential compulsive gamblers		Probable compulsive gamblers	
	Nevada	National sample	Nevada	National sample
Men	3.8	2.7	3.3	1.1
Women	1.1	2.0	2.0	0.5
Total	2.35	2.33	2.62	0.77

TABLE 5-19.—COMPARISON OF GAMBLING BEHAVIOR, NEVADA RESIDENTS AND NATIONAL SAMPLE, 1974

	Percent of adult population who participate		Average annual wager per bettor	
Games	Nevada	National sample	Nevada	National sample
Legal:				
Horseraces (on-track)	3.2	13.7	$103	$ 448
Off-track betting parlors	6.0	8.7[a]	179	1,183
Slot machines	72.1	—	377	—
Keno	54.2	9.4[b]	not asked	448[b]
Casino games	27.3	—	846	—
Bingo	24.1	18.7	104	69
Lottery	—	50.3[c]	—	23
Sports betting parlors	8.0	—	158	—
Total legal commercial	76.0[d]	44.0[e]	$665[d]	$ 273
Illegal:				
Sports books	2.9	1.9	$275	$ 623
Horse books	1.9	2.4	131	417
Numbers	0.0	3.0	0	273
Sports cards	3.0[f]	3.2	36[f]	44
Total illegal	4.3	11.2	$257	$ 318

[a] New York OTB only

[b] Figure represents slot machines, keno, and casino games combined

[c] States with legal lotteries only

[d] Includes sports cards

[e] Includes dograces, jai alai, and other legal forms of gambling not shown above

[f] Sports cards are legal in Nevada

CASINO GAMBLING IN PUERTO RICO

The Commonwealth of Puerto Rico is the only American jurisdiction outside of the State of Nevada where legal casino gambling is operated. Gambling has traditionally been a part of Puerto Rican culture; gaming houses, cockfighting, and horseracing existed in Puerto Rico during Spanish sovereignty. However, it was not until the emergence of the tourist industry as a major source of revenue to the island that casino gambling was legalized. The Games of Chance Act, permitting the operation of casinos, was passed on May 15, 1948, and the casino regulations followed on August 22, 1949. The primary force behind passage of this legislation was the desire to develop tourism. Prior to that time, various casinos operated sporadically, patronized primarily by Puerto Ricans. With the legalization of casino gambling, however, patronage changed radically: Ninety-two to 95 percent of the players now consist of visitors to the Island.

The political policy toward gambling has been one of strict government intervention designed to discourage major scandals and unlimited gambling profits. The Commonwealth attempts to prevent dominance of gambling as a tourist attraction, and encourages it only so long as it remains just one of several attractions offered to visitors. Such close supervision has led to an image of fair play and integrity of operation in Puerto Rican casino games. That image is further promoted by the continuous presence of government inspectors in the casinos who test the equipment and scrutinize the play. These inspectors are employed by the Tourism Development Company, the governmental agency vested with authority over gambling operations and regulation.

Other regulations which have been enacted with an eye toward preserving the dignity of the surroundings include a strict dress code for players as well as employees, prohibition of alcoholic beverages or inebriated persons within the casinos, specifications as to the size of hotels that may be permitted to house casinos, minimum and maximum limits on wagers, and specific hours during which casinos may be operated. Adding to the rigidity of these regulations is the fact that any change requires approval by the Legislative Assembly.

The economic impact of casinos has been substantial. Approximately 63 percent of the total number of hotel rooms in Puerto Rico belong to hotels with casinos, and these hotels provide employment to 81 percent of all those employed in the tourist industry. The 11 hotels with casinos clearly represent the base of the island's tourist industry. In recent years, however, casinos' contributions to the economy have been diminishing. Several factors have been cited as contributing to this diminution: the general economic contraction of the entire tourist industry, spiraling labor costs and benefits, and taxation. Some attempts have been made to alleviate the problem: Hotels, but not casinos, for instance, enjoy tax exempt status. Permission has been granted to hotels with casinos to charge an overhead deduction against the casino operation in proportion to the total gross income derived from hotel and casino operations, thereby providing a partial subsidy to casino operations.

CASINO GAMBLING IN GREAT BRITAIN[21]

In 1968, the Parliament of Great Britain passed the Gaming Act, which, among other things, officially acknowledged that the people of Great Britain want to gamble and had in fact been playing casino games illegally. Passage of this act had three major objectives: reduction of the criminal elements present in illegal gaming parlors; restriction of excessive profits derived by the operators of gaming places; and the provision of acceptable, well-controlled, and supervised surroundings in which could be met the "unstimulated demand of the indigenous population" for casino gaming. A gaming board was established to serve as the regulatory and supervisory entity; this board was granted extraordinary powers based on the view that gaming could be socially destructive if not properly regimented. Among the powers of the gaming board is the initial investigation and clearance of applicants seeking a gaming license. As a first step, each applicant must obtain a certificate of consent from the gaming board. If the certificate is denied, the applicant has no right of appeal and is barred from proceeding further. If the certificate is granted, the applicant may then seek a gaming license from the local justices. Restrictions placed on casinos in Great Britain make gaming there very unlike the wide-open gambling in Nevada. These restrictions include:

MEMBERSHIP CLUB FORMAT. Any organization wishing to conduct commercial casino gaming in Great Britain must do so as a membership club. This format allows the imposition of certain restrictions such as dress requirements and selection of patronage. Furthermore, the imposition of membership fees could be viewed as an attempt to limit gaming facilities to those persons with the resources to indulge in this activity. This membership requirement carries with it the "48-hour" rule—under it, a person, in order to use the club facilities to gamble, must make application for membership in writing on the premises at least 48 hours before he is permitted to gamble, or, if he already is a member, he must give notice on the premises of his intent to gamble at least 48 hours before being permitted to do so. This rule attempts to prevent impulse gambling and is viewed as protective of the local population, who are prevented from impulse gambling by having time to reconsider during the 48-hour waiting period. Although *bona fide* guests of members are permitted to use the facilities upon compliance with the 48-hour rule, junkets are strictly prohibited.

RESTRICTION OF CASINO ACTIVITY. Unlike the 24-hour operation of Las Vegas casinos, casinos in Great Britain must restrict gaming to the hours between 2 p.m. and 4 a.m. In addition, British gaming law includes a proscription against the serving of alcoholic beverages within the gaming area, a prohibition against tipping of employees at the gaming tables, a restriction of slot machines (known as fruit machines) to two, and a prohibition against live entertainment on the casino premises. These restrictions are intended to prevent inducements to gamble and to frustrate impulse gambling. Thus, if a person desires to gamble despite the lack of added attractions and despite the membership requirements, he is able to do so, but he will not have been stimulated to gamble through the lure of flashy surroundings and entertainment.

PROHIBITION AGAINST GRANTING OF CREDIT TO PLAYERS. Unlike Nevada, Great Britain does not permit the granting of credit in its casinos. A person must use cash or a personal check to obtain chips or gaming tokens; all checks held by the casino must be deposited in a bank within 48 hours and cannot be returned to the player. A person may not redeem his check at the end of the evening for cash from his winnings at the tables. Similarly, a person writing several checks during the course of an evening cannot write one check consolidating the total amount of outstanding checks. It is believed that this rule also serves as a deterrent to impulse gambling, in that a person is made aware that he must have sufficient funds on deposit or sufficient liquid assets to enable him to meet the amount of the checks written. Furthermore, this system is thought to protect against extraordinary methods of collection being used: Since a check constitutes a legally enforceable instrument, there is no need to rely upon [illegible] agencies for settlement of outstanding debts.

RESTRICTION OF ADVERTISING. With one exception, British casinos are prohibited from advertising in newspapers or magazines which circulate primarily within the boundaries of Great Britain. This exception occurs when, upon the granting of a license, the successful licensee is permitted to advertise—only once—that he has received a license and is open for business. This restriction is designed both for the benefit and protection of the indigenous population, and to prevent the stimulation of interest in and demand for gambling.

Social, rather than economic, considerations are the motivating factors behind casino gaming in Great Britain; this is shown in part by the fact that no income tax is imposed on gambling winnings. At the present time, there are approximately 128 casinos operating throughout Great Britain, and these casinos are able to meet the "unstimulated demand of the indigenous population." They have been located in areas where this unstimulated demand has been shown to exist, and they are far fewer in number than the illegal casinos in existence prior to passage of the act.

CASINO GAMBLING IN THE BAHAMAS[22]

As in the Commonwealth of Puerto Rico, casino gaming in the Bahamas is viewed as a tourist attraction. In fact, only tourists are allowed to gamble in the Bahamas; resident Bahamians may not.

The present system is based on legislation passed in 1969 providing for a three-member gaming board with the power to grant casino licenses. Apart from the exclusion of residents and certain other restrictions, the Bahamian regulations are more like those of Nevada than of Great Britain.

- Live entertainment is permitted in casinos; the shows presented, however, must be of a "high standard"—a quality that is determined arbitrarily by the gaming board.
- Tipping of casino employees is allowed; however, the tips are pooled and divided among employees, with no share going to the casino operators.
- Employees of the casino, as well as players, must be 21 or older and are issued permits which must be renewed on a yearly basis.
- Gambling on credit is permitted, and copies of all markers or "IOU's" are made available to the gaming board. Despite the fact that these markers are not collectable in Bahamian courts of law, taxes are assessed the operators on the total amount outstanding, whether or not the total is ultimately collected. As in Great Britain, however, no income tax is levied upon gambling winnings.
- Slot machines are permitted in Bahamian casinos, with a specific number allocated to each site; these allocations can only be increased by permission of the gaming board. Slot machines are the only form of electronic gaming equipment permitted in the casinos.
- Junkets, which provide a large source of business to the Bahamas, are encouraged. Most of these groups come from the Northeastern United States and Canada. The gaming board conducts background investigations of all junket organizers.
- Like those in Nevada, casinos in the Bahamas are open for business 24 hours a day, 7 days a week.

CONCLUSIONS AND RECOMMENDATIONS

Proponents of legalized casino gambling in States other than Nevada generally put forth two major arguments in favor of their position. The first is that casino gambling will provide needed revenues to States; the other is that resort areas will become more popular tourist attractions with the added glamor of casino gambling. The Commission questions the validity of these two arguments.

The Commission does not believe that States should expect revenues from legalized casino gambling to ease their financial difficulties significantly. Casino gambling has not, to date, proved to be a financial panacea. The State of Nevada, which offers an example of successful revenue-raising through legalized gambling, stands only sixth among States in total revenues derived from legal gambling. Although casinos may generate enough revenue to help meet the needs of a State with Nevada's population, they are not capable of providing the resources necessary to support the costs of public services in heavily urbanized States. Compared to the costs of government, to say nothing of the potential social costs, the revenues that could be made by taxing or operating casinos in those States would be trivial.

When casino gaming was legalized in Great Britain, it was done with an eye toward social rather than revenue-raising considerations. The regulations governing licensing and control deal primarily with protection of the local population; only secondarily do fiscal considerations figure into the overall plan. In fact, elimination of excessive profits to operators was a stated objective of the 1968 Gaming Act.

As to the potential increase in tourism, the Commission warns against promotion of casino gambling as a tourism stimulant where there is no pre-existing demand for this type of gaming. The legalization of casinos in Great Britain came about because many illegal casinos were already in operation throughout the country and were being heavily patronized by British subjects—to their financial detriment. The Commission does not believe that so extensive a demand for casino gambling exists in the United States today; it may well be that the casinos in Nevada and in such readily accessible areas as the Bahamas and Puerto Rico are more than sufficient to meet present demand. The Commission emphasizes that it does not view with favor the potential effect of casinos on the resident population, even in resort areas: the possible benefits that could accrue to local economies—assuming that the huge capital outlays necessary to construct competitive casino plants and attendant facilities could be secured and that competition among resort areas would not fragment the available market—might well be offset by social costs to the surrounding communities. The Commission's gambling survey indicates that Nevada residents participate in commercial gambling activities to a much higher degree than people elsewhere in the Nation, and that compulsive gambling is more prevalent in that State. In contrast to these findings, the Commission heard testimony from several Nevada witnesses who characterized the long-term Nevada resident as an indifferent gambler. These witnesses stated that when people first move to Nevada they may gamble excessively, but that after they become accustomed to the lifestyle there they tend to lose interest in gambling.

The Commission believes that Nevada—because of its relatively small and homogeneous population—is able to cope with the effects of overindulgence in gambling, whether it occurs to the extent indicated by the survey or to the much lesser degree reflected in the testimony of Nevada residents. The Commission believes, further, that densely populated areas are likely to find it much more difficult to cope with the effects of overindulgence. If Nevada-style casinos were legalized in heavily urban areas, participation by low-income people can be expected to result in increased social problems and an expanded need for government services, thereby offsetting in whole or in part any advantages derived from the stimulation of local businesses.

On the other hand, location of casinos in isolated or nonurban areas might well result in the urbanization of the previously isolated area. This in turn might cause a heavy increase in land speculation, with resulting damage to surrounding resort or vacation areas. Furthermore, this placement scheme would not be in keeping with the provision of casinos on a demand basis.

In sum, the Commission does not believe that any clear benefits would derive from passage of legislation in the various States to establish casinos. Although certain States might disagree, the Commission does not believe that casinos can produce sufficient revenue to offset their inherent social costs. However, if a State after having studied the potential consequences—still passes such legislation, **the Commission recommends that any legalization of casino gambling be restricted by the State to relatively isolated areas where the impact on surrounding populations can be minimized.** Although the Commission realizes that such a principle might not appeal to State policymakers who wish to stimulate existing resort areas, it nonetheless believes that the likely social effects of legalized casino gambling outweigh purely economic considerations.

Another factor to be considered is the possible impact of casino gambling on existing industries—not only on other forms of amusement and recreation, but on those forms of gambling which have been legalized for the purposes of raising State revenues. Would casino gambling reduce the handle at parimutuel racetracks or the sales of State lottery tickets? Or would the climate of further legalization stimulate these activities? Local market conditions play a major part in such developments and merit careful examination. **The Commission recommends that only in rare instances and extraordinary circumstances should casino gambling be permitted in a major metropolitan area; if this is done, the casino regulatory plan should be strictly monitored in order to insure special protection for the resident population.** For example, after viewing the experience of the British Government, **the Commission recommends that appropriate restrictions be employed to limit the participation of the local population in casino gambling.**

Should a State decide to legalize casinos, the Commission recommends private enterprise as the best vehicle for insuring that they are effectively maintained. For a State to take on the direct responsibility for operating and promoting casino gambling would raise substantial practical difficulties, would require the State to participate actively in the promotion of an entertainment business, and would invite the possibility of direct government involvement in any gambling-related scandals that might arise.

Because scrupulously controlled private enterprise has proven successful in Nevada, the Commission commends that basic framework to any State wishing to legalize casinos. Although serious questions arise as to whether a State that relies so heavily on a single industry for its revenue needs is truly capable of regulating that industry properly, particularly if that State's government is small in proportion to the size of the industry, the Nevada control structures have stood the tests of time and, often, bitter experience; the State's Gaming Policy Committee, Gaming Commission, and Gaming Control Board all seem to operate effectively and to commend themselves as models to other States.

Decisions rendered by the Gaming Commission can be tested by the appellate process in the courts, thereby insuring judicial review of contested issues. The licensing procedure, including requirements of background investigation and full disclosure of ownership interests, are properly strict and thorough, and the statutory framework has been augmented by a comprehensive scheme of regulations, which have been continuously modified to adapt to changing circumstances. This Commission, would, however, encourage licensing of each employee involved in the actual conduct of a game. This would serve to insure the integrity of the games and enhance the reputation and credibility of the gambling operations.

The Commission recognizes that the State of Nevada has chosen to utilize slot machines to the fullest, and it takes no exception to the method of utilization employed or to the method of regulation. Although this form of gambling might be viewed favorably by a State's voters, it is one that can easily be abused, and thus should not be encouraged as a source of State revenue without accompanying restrictions on accessibility. The slot machine, by design, stimulates repeated play. Its ease of operation and physical design are specifically created to hold the player's attention. While the Commission recognizes the ingenuity of this design, it is concerned about the potential impact of slot machines upon players. For this reason, the Commission feels that the presence of slot machines in areas of public access, such as commercial nongaming establishments, should not be permitted. These devices should be restricted to areas of limited accessibility. The ease and repetition of play of the slot machine led the British Government to limit its availability because it was viewed as a possible inducement to addictive gambling when it is easily available to all segments of the public. **The Commission recommends that communities should not turn to this revenue-raising method lightly; but if slot machines should be legalized by a State, that State should adopt the British system of allocating a limited number of machines to specified locations, and maintaining vigilant regulation of the amount of payouts.**

The Commission recognizes that certain amusement machines—pinball machines, for example—are viewed by some persons as a form of gambling. The Commission does not share that view. While it believes that amusement machines require more regulation than presently exists, the Commission has determined that such machines fall outside the scope of its inquiry, and as such, are not subject to its scrutiny.

This having been said, the Commission now directs its attention to those areas of casino regulation in Nevada to which it takes exception. Although the regulations providing for the licensing and control of casinos in Nevada have proven themselves to be capable of protecting the interest of the State in promoting secure and profitable casino gambling, there remains one area not extensively covered by Nevada gaming regulations—player protection. Specifically, Nevada makes no provisions for setting odds, rates of payouts, minimum and maximum betting limits, hours of casino operation, and other factors directly relating to the impact of a casino on the people it is designed to attract. Nevada gaming authorities believe that the competition created by the free enterprise system insures that the public will be treated fairly, meaning that if a particular casino repeatedly takes unfair advantage of its customers its business will decline. This argument notwithstanding, the Commission believes that if a State is planning to legalize casino gambling, at least for the partial purpose of raising revenue, it should bear the responsibility for protecting the interest of those whose gambling it sanctions and promotes.

In the Commonwealth of Puerto Rico, player protection is embodied in the enabling casino legislation. **The Commission finds many of these provisions to be commendable; however, it believes that such restrictions should take the form of regulations rather than statutory provisions.** Regulations having the same force as statutes have the advantage of being easily amended should the need for change arise. State policy in such areas must be kept flexible and adaptable so that State officials can regulate the impact of casino gambling and respond to changes in market conditions. These regulations, like the present regulations in Nevada, would stand within a rigid statutory framework of control over gambling, such as that provided by Nevada's Gaming Control Act.

The Commission wishes to point out that the diversity of the several States might well lead to various patterns of casino gambling for different areas of the country. Should a sparsely populated State wish to institute casino gaming, it may well wish to follow the example set by Nevada; on the other hand, a State such as New York may wish to institute casinos patterned after the British model of private clubs, with restricted entry for the protection of the resident population. In any case, the Commission sets out below several options that might be considered by States that have overcome the arguments against casino gaming and have decided to legalize casinos.

EXTENSION OF CREDIT. One alternative is the Nevada example, whereby credit is extended up to a certain amount, predicated upon verification of financial information provided by the player. Another option is that employed by British casinos, where only cash or checks are accepted in exchange for gambling tokens. It is believed that limitation of gambling to cash on hand or bank checks helps curb impulse gambling, and protects the player by not allowing him to gamble in excess of his liquid assets.

ENTERTAINMENT. Again, the Nevada and British examples offer different options. In Nevada, lavish entertainment, 24-hour liquor service in and around the gaming areas, and gourmet restaurants are accepted as a necessary and desirable feature of a gambling casino. In Great Britain, on the other hand, restaurants often adjoin the casinos, placed there on the assumption that a fine meal in elegant surroundings serves as a distraction from gaming rather than an inducement to gamble. Liquor may be served in the restaurant area and in lounges separated from the gaming area, but not in and around the gaming tables. The Commission believes that if liquor is to be permitted, the latter option is probably the preferable one.

ADVERTISING. In keeping with the policy of not stimulating additional demand for casino gambling, the gaming board of Great Britain has imposed a prohibition against advertising of casinos within the country. This policy, together with the prohibition against live entertainment, is believed to prevent impulse gambling predicated upon promotional materials. This is contrary to the Nevada policy, which permits unlimited advertising of the casinos themselves, the hotel facilities, entertainment, restaurants, and other amenities.

MEMBERSHIP CLUB CONCEPT. Restriction of public access has been deemed to be a desirable feature of casino gambling in Great Britain. To gamble in a casino there, one must become a member of a club, which can only be done by making application on the premises. Forty-eight hours after this application is accepted the applicant may gamble. Furthermore, after someone has become a member, he must give notice of intention to gamble 48 hours before he is allowed to. There is some disagreement over whether this restriction should be lifted for nonresidents, inasmuch as the purpose behind the limitation is to protect the indigenous population from impulse gambling. It is believed by some casino operators that the damage that results from turning away foreign visitors, some of whom are in the country for less than 48 hours, warrants the lifting of the "48-hour rule" for nonresidents only. In any event, the club concept does permit the imposition of additional restrictions which contribute to the maintenance of high standards, as well as serving as a deterrent to impulsive gamblers. For example, clubs may impose membership fees, the level of which may be set high enough to insure that no one who cannot afford to gamble will be permitted membership. Dress codes may also be initiated by the club ownership.

In Great Britain, play is limited to the hours between 2 p.m. and 4 a.m., unlike the 24-hour-a-day play in Nevada, where casinos are open to the public seven days a week. The Commission has been told that Great Britain is perhaps more oriented to the club format in the daily lives of its subjects than is the United States, and that, for this reason, membership-club casinos have been successful there but would not be so successful in this country. Nevertheless, a State with legal casinos that might be interested in restricting the entry and frequency of participation of local residents might well wish to impose this type of limitation.

TIPPING OF EMPLOYEES. On this issue the systems of Great Britain and Nevada also differ. In Nevada, tipping of gaming employees by the player is considered to be a way of life; in Great Britain, it is strictly prohibited. Although formerly permitted in British casinos, it is now prohibited on the theory that tipping of employees gives them a vested interest in the outcome of play, and might ultimately lead to collusion between the employee and the player.

In conclusion, the Commission wishes to emphasize that, while it does not favor increased legalization of casino gaming, it believes that States considering this type of legislation should acquaint themselves with the various forms of regulatory policies that have been employed by other countries having expertise in the area. Although the Nevada system may be satisfactory for that State, other methods may prove more feasible for other States seeking to institute casino gambling.

PARIMUTUEL WAGERING

Parimutuel wagering is conducted in one form or another in 32 States that contain approximately 80 percent of the Nation's population. Most parimutuel wagering takes place at horse tracks—thoroughbred, harness, and quarter horse. Dogracing is the second most popular parimutuel event, while jai alai, the third, generates approximately one-eighth of Florida's gambling income and a barely measurable percentage of Nevada's. The newest form of parimutuel wagering is off-track betting, which is an extension of on-track betting and operates according to the same general principles as on-track betting. Although it is conducted only in New York State and Connecticut, OTB is growing in importance as a new and potentially major form of legalized gambling.

This section examines the various aspects of the parimutuel industry—its history and development, its operation, the revenue it produces, and the problems that confront its principal components. The section also contains a brief description of the State regulatory bodies that govern parimutuel wagering and of the industry's many independent trade associations.

HISTORY

HORSERACING. Horseracing—commonly called the "sport of kings"—has evolved over the centuries from its aristocratic origins into a widely popular pastime. Crowds for racing meets are still increasing; racing is the most well attended sport in America.

Although the first recorded mounted horserace occurred in Greece in the seventh century, B.C., horseracing in one form or another appears to be at least 6,000 years old. Flat racing—in which a rider is mounted directly on the horse, not in a rig drawn by the animal—is about 3,000 years old. Racing gained its regal reputation and its greatest impetus in England, where it became a preoccupation of the monarchy from about the 12th to the 17th century.

The scientific breeding of thoroughbred horses is usually credited to the Duke of Cumberland in England in the 18th century. The first known thoroughbred horserace occurred in England in 1764.

The three principal forms of horseracing in the United States today are harness, thoroughbred, and quarter horse. Less common are Appaloosa, Arabian, and Paint horseracing. Harness racing is believed to have preceded flat racing by some 3,000 years, dating back to the era when horses were used as beasts of burden and before riders mounted the animals directly. The chariot races of ancient Rome were a fairly well-developed phase in the history of the sport. Today, although trotting has been called "the most typically American of all horse sports,"[23] its role in the racing economy is secondary to that of thoroughbred racing. In 1975, there were fewer thoroughbred than harness racing days but the thoroughbred handle was $2 billion higher than the harness racing handle (see table 5-20). Nineteen States currently have authorized parimutuel wagering at harness races. Nighttime harness racing, a factor in the continuing success of the sport, began at Roosevelt Raceway in 1941.

There are a number of reasons why American racing is dominated by the thoroughbred. Its traditional appeal to those in a position to make important political decisions favoring the sport may be a factor in its proliferation. In the early Colonial days, concern over the lack of quality horses in America prompted colonial governors to sponsor races as a means of identifying the fastest horses for selective breeding. The early races—attended primarily by the American "gentry"—eventually evolved into organized sporting events whose appeal transcended class lines.

One curious aspect of thoroughbred racing is that no one knows exactly what constitutes a thoroughbred. Today, in order to qualify as a thoroughbred, a horse must be registered with the New York Jockey Club. Only those horses may be registered whose sire and dam are registered, and, ostensibly, the lineage of all thoroughbreds must be traceable genetically back to the three prototypes of the breed, oriental stallions known as Godolphin, the Byerly, and the Darley. Anatomically, the thoroughbred is distinguished from other breeds of horses by its greater height and longer legs.

The quarter horse might be called the country cousin of the patrician thoroughbred. The quarter horse—whose name refers to the quartermile sprint it runs on the track—was developed in colonial Virginia by breeding native English horses to horses of Spanish ancestry, producing a swift hybrid for the short distances required for it. Unlike the thoroughbred, the quarter horse is bred not merely for racing and breeding, but for more utilitarian purposes as well, such as farm work and even transportation. In 1974, more quarter horses—some 1 million—were registered than all other breeds combined.

Despite the prevalence and versatility of the quarter horse, it plays a relatively minor role in the parimutuel industry. Quarter horse meets are often rural activities run at State and county fairs and other community functions. Parimutuel wagering on quarter horse races takes place in 16 States, usually in mixed races on thoroughbred programs. There is no parimutuel wagering conducted at about a third of all quarter horse races. In 1975, the total parimutuel handle for quarter horses was only $140,345,856 (exclusive of the handle for mixed programs of thoroughbreds and quarter horses). In the coming years, however, the growing shortage of thoroughbreds may

TABLE 5-20.—COMPARISON OF THOROUGHBRED, HARNESS, AND QUARTER HORSE INDUSTRIES, 1975

	Total	Thoroughbred*	Harness*	Quarter horse*	Mixed*
Racing days	13,110	5,415	5,856	376	1,463
Number of races	126,147	51,247	57,494	3,566	13,840
Total attendance	78,662,370	43,147,357	28,214,042	1,586,168	5,714,803
Daily average attendance	6,001	7,967	4,818	4,219	3,907
Parimutuel handle	$7,862,184,707	$4,657,718,795	$2,600,031,919	$140,345,856	$464,088,137
Daily average handle	$599,709	$860,152	$443,995	$373,261	$317,217
Revenue to State	$581,645,638	$361,047,905	$190,526,818	$8,760,984	$2,309,931
Number of States conducted in	30	19	19	4	9

*The figures in the thoroughbred, harness and quarter horse columns apply to racing programs that consist exclusively of one type of racing, the figures in the "mixed" column represent racing programs made up of thoroughbred and quarter horse races

NOTE Figures exclude OTB

foster the growth of quarter horse racing, as more track owners begin using quarter horses to fill gaps in their thoroughbred racing programs.

The formal debut of horseracing in the American colonies took place in 1665, when a New York governor sponsored racing meets at the Newmarket track on Long Island. Although wagering became a factor in the sport almost immediately, horserace betting in the United States remained largely an upper class activity for about 200 years; its chief participants were the breeders and owners who supplied the animals. But by the mid-19th century the general public had developed an appetite for the sport and for the betting that seems indigenous to it.

To meet the needs of racing's expanding market, and to generate still more fans, racing entrepreneurs began to build huge new track facilities capable of holding tens of thousands and offering a festive, circus-like atmosphere for the players. New York's Belmont Park, which opened in 1905, was the prototype of these tracks; over the years, it was to be matched in scope and clientele by such parks as California's Santa Anita (1934) and New York's Aqueduct (1959), the Nation's largest.

As betting increased among racing fans at the new tracks, a new gambling figure emerged: the racetrack bookmaker. The bookie rapidly became the dominant figure in horse betting. Usually a knowledgeable habitué of the track, the bookmaker was the agent against whom the layman bettor wagered his own expertise and hunches. The bookie, was, in effect, the bettor's competition; with his insider's tips, his greater familiarity with the mechanics of the wager, and his frequently unscrupulous manipulation of jockeys and trainers, the bookie held the clear advantage.

The bookmaker's position in horse betting was weakened by the invention of the parimutuel system, in 1865, by a Frenchman. Parimutuel betting—now the dominant legal system in the field—offered a number of attractive innovations for the average bettor. It allowed him to bet against his peers, the other amateur bettors, instead of the professionals, the bookmakers. By allowing payoffs on second and third place finishes, it increased the bettor's chances of getting some return on his investment. And by using machines to calculate odds, issue tickets, and provide payoffs, parimutuels went a long way toward eliminating the elements of corruption, fallibility, and arbitrariness that had often marked the bookmaker's trade. First used successfully at the 1908 Kentucky Derby, parimutuel betting is now legal at more than 150 racetracks in 32 States, and is the most popular form of legal gambling in the Nation. Contributing to its growth has been the introduction of long-odds bets that are called "exotic" bets: the exacta, the quinella, the trifecta, etc. Many track fans dislike exotic bets. One track owner said:

> I consider normal betting on just one race at a time as wagering. The bettor tries to make an intelligent choice based on his knowledge of the horses, jockeys, and track conditions. The doubles and quinellas, on the other hand, are gambling—a matter of pure luck.

Nonetheless, exotic bets, no matter how "unscientific" they may be, remain popular.

JAI ALAI. Actually, the exacta and quinella are not the invention of the horseracing industry but of jai alai, which, along with dogracing, is one of only two sports to share a parimutuel betting system with horserace tracks. Jai alai (which means "merry festival") has been around since the 17th century, when it was devised by the Basques, but it has found favor as a professional sport among Americans only recently. Parimutuel betting on jai alai was legalized in Florida in 1935; only Nevada and Connecticut so far have followed Florida's example. Rhode Island has legalized the game but has not yet begun its operation. In the more than 40 years since jai alai has been regulated by the Florida Racing Commission, there has never been a charge of a fix, a fact jai alai enthusiasts claim make it the cleanest gambling game in the world.

DOGRACING. Although there are accounts of the use of greyhounds for sporting events in ancient Rome, the greyhound's principal historical role was that of a hunter whose speed and stamina were unmatched by any other canine breed. The earliest greyhound racing was a competitive version of the hunt. Two greyhounds would be released together in pursuit of a hare, and the race would be judged on the basis of the dogs' performance during the chase. Called "coursing," this type of greyhound racing reached the height of its popularity in England during the reign of Queen Elizabeth I when it first began to be called "the Sport of Queens."

The modern version of greyhound racing in America evolved from a coursing event held in South Dakota in 1904. The sponsor of the event, Owen Patrick Smith, developed an immediate enthusiasm for the sport along with a strong distaste for the killing of hares. Smith spent the next 15 years testing and perfecting a mechanical lure. These early devices were unwieldly contraptions that often would slam into a wall, fall off the track, or stop suddenly, causing a pileup of dogs and machine. These mechanical difficulties were resolved with the invention of a folding arm that made the lure disappear while allowing the vehicle to continue around the track. But even with this new technology, greyhound racing did not achieve instant popularity. Many of the early races were conducted by unscrupulous fly-by-night promoters who gave the sport an unsavory reputation. Eventually, however, introduction of the parimutuel system of wagering along with more effective regulation fostered public acceptance of greyhound racing as a legitimate form of entertainment.

THE PARIMUTUEL SYSTEM

The essence of the parimutuel system of betting is that bettors wager against one another instead of against a bookmaker. Of the total amount wagered on a particular race, approximately 82 to 85 percent is returned to winning bettors in the form of payoffs on the three winning horses—win, place, and show—and on combination (exotic) bets where they occur. The minimum wager per race is $2, but larger bets in units of $5, $10, $50, and $100 also may be placed. The amount of money paid to winning bettors is determined on the basis of the total amount wagered on each horse or dog (or player in the case of jai alai). If a particular horse or dog is heavily favored during the course of betting, the payoffs on that animal if it wins will be much smaller than the payoffs on a winning horse or dog on whom little was wagered. For example, if a total of $50,000 is bet on a particular race and $10,000 of that amount is bet on a particular horse, the payoff odds on that horse will be 4-1; that is, for each dollar bet on this horse, $4 has been bet on other horses. The odds on place, show, and exotic bets are not calculated in advance because too many horses and combinations are involved. The total amount bet on place bets is divided among ticketholders whose horse came in first or second; the amount wagered on show bets is divided among ticketholders whose horses came in first, second, or third.

Wagering computations are accomplished by a totalisator (tote) machine, which adds bets over and over again during the course of betting. Every 60 to 90 seconds the tote flashes the new betting totals and odds for each animal on a large toteboard. During the approximately 20 minutes before each race when betting occurs, the odds on each contestant may change dramatically. The machines contain a number of features designed to minimize the potential for parimutuel fraud or machine malfunction. These features include coded ticket paper and duplication of all critical functions by two computers working independently of one another. The most sophisticated of the modern tote machines not only compute and post odds but also maintain complete records of the betting activity on each race as well as postrace information on payoffs and uncashed tickets. Totalisators also are used in jai alai and for off-track betting and can be modified for use in lotteries and sports betting.

The Takeout

The takeout is the portion of the parimutuel pool that is not returned to winning bettors. The amount varies among the States but generally ranges from 15 percent to 17 percent of the handle. The takeout is divided among the horse or dog owners' purses, the track, and the State in which the racing is conducted. The apportionment of the takeout among the three entities also varies from State to State. In some States the takeout on combination bets exceeds the straight bet takeout. In New York and New Jersey, for example, the takeout is 25 percent on three-horse combination bets. Often, the State receives half of the total takeout, and the remaining half is divided equally between the track and the horse owners. Purses in dogracing average 12 to 13 percent of the total takeout compared to about 25 percent for horseracing purses.

Three recent research efforts suggest that current takeout rates are too high. The first is an article based on data for New York tracks prior to the introduction of OTB and exotic wagering.[24] The author shows that the takeout rate yielding the highest revenue to the State in 1969 would have been 14.88 percent rather than the 17.16 percent that actually prevailed. He also estimates that this reduced takeout would have increased revenue to the State and tracks by $1.1 million

The National Gambling Commission also has undertaken research on this question. One study,[25] using data on per capita handle in the individual States for the years 1950 to 1974, estimates the optimal takeout rate at 12 to 13 percent. Another study,[26] using a more complicated model to explain handle at the New York tracks, places the optimal takeout rate at 12 to 14 percent. Although these efforts cannot be considered as absolutely conclusive, they do suggest that there has been some confusion between high tax rates and high tax revenue, and they underscore the need for more detailed research in this area.

In addition to the takeout, there is another, smaller portion of the parimutuel handle that is not returned to winning bettors. That money—called breakage—is the amount of each winning payoff that exceeds multiples of

5 or 10 cents. For example, if the payoff to a winning bettor is $5.67, the bettor will receive only $5.60, with 7 cents retained as breakage. Some States have provisions for a 5-cent breakage that only applies in specific cases. If, for example, the winning horse in a particular race is so heavily favored in the betting that there is not enough in the parimutuel pool to pay the winners (called a minus pool), the breakage may be reduced to 5 cents in order to provide additional money for the winners. Thus, on a payoff of $2.27 a 10-cent breakage will yield the winning bettor $2.20, while the 5-cent breakage will yield $2.25. The distribution of the breakage monies varies among the States. Some States retain the entire sum; others return all or part of it to the tracks, and, in a few cases, a portion of the breakage is used to supplement purses, for breeder and owner awards, or for improvement of backstretch facilities for track personnel—jockeys, trainers, etc.

Finally, for every race there are some people who fail to cash in their winning tickets. The money from uncashed tickets goes either to the State, to the track, or is divided according to a specific formula. In addition to their share of the parimutuel handle, the States may collect money through taxes on track admission, parking, and from track and occupational licenses (discussed below).

Parimutuel Revenue

Almost half of the $19 billion handle from legal gambling in 1975 consisted of parimutuel wagers at horseraces and dograces and jai alai frontons. From the States' point of view, the most important aspect of this wagering is the money it generates for their overburdened treasuries. New York is the major parimutuel State; in 1975, it earned from parimutuel and related incomes $162.5 million. Table 5-21 shows State revenues from parimutuel wagering on horseraces, dograces, and jai alai (excluding OTB) from 1970 through 1975. The figures listed in table 5-21 include the State's share of the parimutuel takeout plus sums collected through track licenses, occupational licenses, breakage, admission taxes, and miscellaneous fees.

The increased revenue to the States from racing reflects increases in the overall attendance rate, in handle, and racing days. Inflation and the declining value of the dollar have contributed to an increase in the average per capita bet as well. Tables 5-22, 5-23, and 5-24 show the increases in handle and racing days, attendance, and per capita bet, for horseracing and dogracing from 1965 to 1975.

The number of racing days has increased in all States except four. The States have sought to expand the parimutuel revenue base as one means of meeting their spiraling revenue requirements. Paralleling the expansion of horseracing and dogracing has been the growth of other forms of legalized gambling such as lotteries and off-track betting, and movements to legalize forms of gambling such as sports betting and casinos.

Total racing attendance, although increasing, has not kept pace with the rate of growth in racing days. As a result, the average daily attendance rate has decreased by 23 percent for horseracing and 1 percent for dogracing in the past 11 years.

The significance of the increasing racing dates and decreasing daily attendance is difficult to gauge. There is no evidence that the popularity of racing is declining. The increases in total attendance and handle would seem to indicate that the opposite is true. Those within the racing industry are concerned, however, that the State's continuing desire for increased gambling revenues may one day cause the racing industry great harm. As will be discussed later in this section, the growth of racing dates ultimately affects the number and quality of horses and dogs avaliable to race, the performance of individual horses and dogs, and the profitability of racing to horse, dog, and track owners.

PUBLIC ATTITUDES AND PRACTICES

The National Gambling Commission survey of American gambling attitudes and practices revealed that 14 percent of the adult population—about 20 million people—bet on horseraces at the track in 1974. Four percent of the adult population—or 5.8 million people—bet on the dograces that year (table 5-25). Proportionately more men than women bet, more Northeasterners than Southerners. Betting at both horseraces and dograces tended to increase as income and educational levels increased. Betting participation peaked among those aged 25 to 44 and then began to decline. Particularly sharp reductions occurred after age 65. Betting at horseraces was three times more prevalent than betting at dograces, the most obvious reason being that there are more horse tracks than dog tracks in the country.

Additional highlights of the survey findings follow:

- Family Income and Betting (table 5-26). From the standpoint of social policy, an important question is whether the percentage of income wagered by individuals rises or declines as income increases. As shown in table 5-26, families earning under $5,000 a year spend a higher percentage of their income on horseraces than those earning more money. Although this makes horseracing a regressive form of gambling, it is less regressive than, for example, lotteries and numbers, which are particularly popular among low-income people.

The cost of gambling to any group is not the amount wagered, but the net loss to players—that is, the amount taken out and retained by the operators. Another way of measuring regressivity, then, is to compute the takeout as a percentage of income. The figures show that, as a source of revenue for the government, on-track horserace betting, like most

TABLE 5-21.—PARIMUTUEL REVENUE TO STATES (EXCLUDING OTB) 1970 TO 1975

Horse and dog racing

(In millions)

	1970		1971		1972		1973		1974		1975	
State	Horse	Dog	Horse	Dog	Horse	Dog	Horse	Dog	Horse	Dog	Horse	Dog
Alabama[1]	$——	$——	$——	$——	$——	$——	$——	$——	$——	$——	$——	$——
Arizona	1.17	2.75	1.30	3.05	1.52	3.47	1.72	3.91	1.87	4.43	2.01	4.47
Arkansas	2.81	2.94	3.20	3.36	3.92	3.71	4.47	4.26	5.22	4.67	5.63	5.08
California	58.40	——	66.77	——	69.65	——	75.27	——	80.99	——	91.45	——
Colorado	.91	3.00	1.07	3.59	1.14	3.91	1.24	4.23	1.68	4.59	1.67	4.83
Delaware	6.95	——	[illegible]			-	9.41	——	9.50	——	7.96	——
Florida	18.64	28.96	19.20	31.97	19.59	35.01	23.21	39.45	25.81	43.96	25.49	45.40
Idaho	.17	——	.11	——	.13	——	16	——	.14	——	.17	——
Illinois	46.57	——	50.26	——	48.53	——	53.10	——	62.03	——	66.10	——
Kentucky	6.78	——	7.41	——	7.95	——	8.78	——	10.75	——	11.23	——
Louisiana	5.07	——	5.40	——	6.41	——	7.15	——	7.98	——	10.26	——
Maine	1.83	——	2.06	——	1.42	——	(2)	——	——	——	1.15	——
Maryland	14.84	——	16.05	——	16.84	——	17.34	——	18.63	——	20.40	——
Mass	12.86	12.72	14.23	14.74	14.80	14.96	17.60	15.24	17.45	14.63	18.64	13.62
Michigan	21.17	——	24.50	——	24.52	——	26.64	——	27.65	——	28.48	——
Montana[2]	.03	——	.03	——	——	——	——	——	——	——	——	——
Nebraska	2.43	——	2.75	——	8.34	——	4.18	——	4.59	——	5.26	——
Nevada	.05	——	(2)	——	——	——	(3)	——	(3	——	(3)	——
New Hamp.	10.25	——	11.04	——	10.15	——	9.23	2.23	8.49	5.09	8.10	8.03
New Jersey	34.77	——	34.80	——	35.83	——	34.53	——	40.16	——	31.87	——
New Mexico	.93	——	1.16	——	1.54	——	1.72	——	1.93	——	2.12	——
New York	173.05	——	172.74	——	159.11	——	162.73	——	161.85	——	162.55	——
Ohio	17.35	——	17.37	——	16.36	——	18.41	——	20.57	——	24.26	——
Oregon	85	1.69	1.16	1.39	1.45	1.51	1.55	1.64	1.57	1.84	1.86	2.05
Penn	20.13	——	21.66	——	22.12	——	27.80	——	28.26	——	27.26	——
R. Island	12.24	——	9.37	——	10.46	——	8.02	——	10.47	——	7.04	——
S. Dakota	.19	1.28	.16	1.37	.20	1.27	.15	1.48	.14	1.47	.14	1.57
Vermont	2.97	——	3.09	——	2.73	——	2.59	——	2.59	——	2.63	——
Washington	2.59	——	2.97	——	3.29	——	4.44	——	4.33	——	4.98	——
West Va.	10.46	——	10.70	——	10.72	——	12.06	——	12.48	——	12.88	——
Wyoming	.09	——	(2)	——	——	——	01	——	(4)	——	——	——
TOTALS	$486.40	$53.34	$508.39	$59.44	$505.90	$63.85	$533.50	$7.46	$567.13	$80.74	$581.64	$85.08

Jai alai

Fiscal years

	1973	1974	1975	1976
Florida	$8.45	$9.81	$11.10	$12.79
Nevada	(figures not available)			
Connecticut	(Jai alai and dogracing began in 1976.)			

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[1] Alabama revenues from dogracing go to the one county in which this activity is legal Mobile County

[2] No record available

[3] Actual figures for 1973, 1974 and 1975 are $8 004, $7 769 and $8 000 respectively.

[4] Actual figure for 1974 is $6 495

All figures rounded to nearest thousand dollars.

Source: National Association of State Racing Commissioners

TABLE 5-22.—PARIMUTUEL HANDLE, HORSERACING AND DOGRACING, 1965-1975

	Horseracing				
	Total parimutuel handle		Racing	Average daily handle	
Year	Current dollars	1967 dollars	dates	Current dollars	1967 dollars
1965	$4,614,602,396	$4,883,177,139	8,051	$573,171	$606,530
1966	4,784,092,584	4,921,905,951	8,384	570,622	587,060
1967	4,921,518,485	4,921,518,485	8,621	570,876	570,876
1968	5,309,950,348	5,095,921,639	9,051	586,670	563,023
1969	5,723,218,112	5,212,402,652	9,539	599,981	546,431
1970	5,977,358,676	5,139,603,333	9,962	600,016	515,921
1971	6,350,255,573	5,235,165,352	10,792	588,422	485,096
1972	6,401,582,132	5,109,004,096	11,478	557,726	445,113
1973	6,990,832,014	5,258,315,563	11,779	593,500	445,905
1974	7,512,555,213	5,086,361,012	12,211	615,228	416,539
1975	7,862,184,707	4,883,344,538	13,110	599,709	372,490
	Percent change 1965-1975				
	+70	0	+63	+4.6	−39

	Dogracing				
	Total parimutuel handle		Racing	Average daily handle	
Year	Current dollars	1967 dollars	dates	Current dollars	1967 dollars
1965	$ 459,550,265	$486,296,577	2,443	$188,108	$199,056
1966	496,885,684	511,199,263	2,865	173,433	178,429
1967	521,352,161	521,352,161	2,914	178,913	178,913
1968	579,176,136	555,831,225	2,949	196,397	188,481
1969	652,261,960	594,045,501	3,037	214,772	195,603
1970	730,039,761	627,721,205	3,023	241,495	207,648
1971	816,380,398	637,025,885	3,276	249,200	205,441
1972	878,100,355	700,798,368	3,247	270,434	215,829
1973	997,274,290	749,266,935	3,510	284,124	213,467
1974	1,164,059,259	788,124,075	3,842	302,983	205,134
1975	1,260,631,716	783,001,065	3,960	318,342	197,727
	Percent change 1965-1975				
	+74	+61	+62	+69	−0.7

NOTE Dollar values based on Table C-44, Economic Report of the President February 1975

TABLE 5-23.—TOTAL AND AVERAGE DAILY ATTENDANCE, HORSERACING AND DOGRACING, 1965-1975

	Horseracing		Dogracing	
Year	Total attendance	Average daily attendance	Total attendance	Average daily attendance
1965	62,887,478	7,811	10,864,750	4,447
1966	63,596,816	7,585	11,120,923	3,882
1967	63,372,895	7,351	11,453,623	3,931
1968	65,460,434	7,232	11,640,486	3,947
1969	68,098,615	7,139	12,005,734	3,953
1970	69,704,290	6,997	12,660,152	4,188
1971	73,619,044	6,882	13,666,462	4,172
1972	70,807,226	6,169	13,760,377	4,238
1973	74,682,716	6,340	14,776,065	4,210
1974	74,948,058	6,138	16,282,420	4,238
1975	78,662,370	6,001	17,457,586	4,409
	Percent change 1965-1975		Percent change 1965-1975	
	+25	−23	+61	−1

TABLE 5-24.—PER CAPITA BETTING,* HORSERACING AND DOGRACING, 1965-1975

	Per capita bet*	
Year	Horseracing	Dogracing
1965	$ 73.38	$42.30
1966	75.23	44.68
1967	77.66	45.51
1968	81.12	49.76
1969	85.04	54.33
1970	85.75	57.66
1971	86.25	59.73
1972	90.41	63.81
1973	93.61	67.49
1974	100.24	71.49
1975	100.00	66.00
Percent Change 1965-1975	+37	+57

*Derived by dividing total handle by total attendance.

TABLE 5-25.—DEMOGRAPHIC CHARACTERISTICS OF ON-TRACK BETTORS, 1974

	Percent who bet at	
	Horseraces	Dograces
Total Sample	14	4
Sex		
Men	16	6
Women	12	2
Region		
Northeast	20	5
North Central	12	4
South	10	3
West	16	4
Income		
Under $5,000	6	2
$ 5,000-$10,000	12	3
$10,000-$15,000	10	5
$15,000-$20,000	16	3
$20,000-$30,000	19	5
$30,000 and over	22	5
Education		
Grade school	8	2
High school	15	4
Some college	14	5
College degree	23	6
Age		
Under 25	14	6
25-44 years	17	5
45-64 years	13	6
Over 65 years	3	2

TABLE 5-27.—PERCEPTIONS OF LUCK VERSUS SKILL IN BETTING ON HORSES

	Percent			
	Betting at track		Betting with bookie	
	Legal bettors	Illegal bettors	Legal bettors	Illegal bettors
Almost all luck/more luck than skill	48	49	44	49
Equal amounts of luck and skill	32	26	32	26
Almost all skill/more skill than luck	20	25	19	25
Don't know	0	0	5	0

TABLE 5-28.—PERCEPTIONS OF RACE FIXING, 1974

Mean ratings	Total sample	Non-bettors	Track bettors	Illegal bettors	All bettors
Horseraces	2.89	2.69	2.94	2.96	2.99
Dograces	3.14	2.75	3.65	3.17	2.90

Ratings 1 = Fixed most of the time
2 = Fixed pretty often
3 = Fixed sometimes
4 = Almost never fixed
5 = Never fixed

TABLE 5-26.—FAMILY INCOME AND HORSERACE BETTING

	Family income						
	Under $5,000	$5,000-10,000	$10,000-15,000	$15,000-20,000	$20,000-30,000	$30,000 & over	Total
Residents of States with legal tracks							
Percent who bet	8.7	15.5	11.2	17.2	20.9	20.3	15.3
Average annual bet per bettor	$186	$294	$396	$577	$294	$436	$513
Average annual bet per capita	$16	$46	$44	$99	$61	$88	$78
Average annual takeout per capita (Takeout rate: 16.6%)	$2.63	$7.55	$7.36	$16.49	$10.21	$14.69	$13.02
Residents of all States							
Percent of income bet at track in 1974 per capita	0.63	0.61	0.35	0.57	0.25	0.22	0.50
Percent of income taken out per capita	0.105	0.101	0.059	0.094	0.041	0.037	0.083
All types of gambling combined							
Percent of income bet in 1974 per capita	2.53	1.55	1.07	1.16	[illegible]	1.09	1.15
Percent of income taken out per capita	0.62	0.42	0.29	0.23	0.14	0.18	0.25

TABLE 5-29 —REASONS FOR BETTING AND NOT BETTING ON THE HORSES

Reasons for betting	Percent Bet at track only	Bet with bookie only	Bet at track and with bookie
Interest: excitement, challenge	98	85	77
Money: make money, get rich	37	68	73
Reasons for not betting	**Percent Bet on other things but not horses**	**Bet at track but not with bookies**	**Bet with bookie but not at tracks**
Lack of interest: don't know or think about it	77	60	75
Money: don't want to lose money, costs too much, waste of money	59	44	62
Legal consequences	11	34	5
Moral consequences	8	14	7
Social consequences	4	17	3

NOTE Vertical columns add to more than 100 percent because respondents chose more than one reason Respondents chose one, two, or three reasons from a list of 11 [illegible] for betting a[illegible]

other forms of gambling, constitutes a regressive form of taxation.

- Luck Versus Skill (table 5-27). Horserace bettors were asked how much luck or skill was involved in betting at the track and betting with a bookie. Almost half of the respondents rated betting on horses as consisting of almost all luck or more luck than skill. About a third rated luck and skill equally. People who bet illegally tended to place somewhat greater emphasis on skill than did legal bettors; one reason may be that illegal bettors are—or think they are—more skillful handicappers than those who confine their betting to the track.
- Race Fixing (table 5-28). Nonbettors, legal bettors, and illegal bettors alike perceived horserace fixing as something that occurs between "sometimes" and "pretty often." Obviously, bettors' lack of confidence in the honesty of the races did not prevent them from betting. Those who believe that winning is a matter of luck rather than skill probably feel that their chances of winning are not diminished by the occasional "fix." Only casinos and numbers were perceived as less honest than horseraces. Dogracing received somewhat higher ratings of confidence than horseracing, probably because dograces—where no jockey is involved—are less susceptible to bribery.
- Reasons for Betting (table 5-29). Most people bet on horseraces and dograces to have a good time and not to make money or to get rich. Many people enjoy the excitement and challenge of a day at the races, and, in fact, betting on the races at the track was rated as the most exciting form of gambling. By contrast, those who bet with bookies attributed much more importance than did track bettors to the money aspects of wagering. The people most interested in making money were those who bet with bookies and went to the track as well. The only other forms of gambling in

TABLE 5-30.—DEMOGRAPHIC CHARACTERISTICS AND ATTITUDES TOWARD LEGALIZATION OF HORSERACE TRACKS

	Percent Positive to Legalization	Negative to Legalization	Unsure	No answer
Total Sample	62	26	10	2
Geographic Region				
Northeast	69	17	14	0
North Central	63	25	10	2
South	51	38	8	3
West	73	17	10	0
Income				
Less than $5,000	43	38	16	3
$5,000-$10,000	58	33	6	3
$10,000-$15,000	63	23	11	3
$15,000 and over	71	20	9	0
Education				
Less than high school	47	36	12	7
High school	65	24	10	1
Some college	70	21	9	0
College degree	77	13	10	0
Age				
18-24 years	72	21	6	1
25-44 years	68	22	9	1
45-64 years	58	25	14	3
65 and over	42	45	10	3
State where tracks are legal	68	19	13	0
State where tracks are illegal	50	50	0	0

which money was a significant factor in influencing participation were lotteries, sports betting, and numbers.

The most frequent reasons given for not betting on horses was lack of interest, which in most cases was expressed as "don't know about it," "don't think about it," and "have other things to do." Money considerations ranked second. As was the case with all forms of gambling, most respondents attached relatively little importance to adverse moral or social consequences of betting on horses. Thirty-four percent of the respondents who bet at the track but not with illegal bookies expressed concern over the legal consequences of betting with bookies.

- Attitudes Toward Legalization (table 5-30). Attitudes toward legalization of horseracing generally reflect the status quo. Horseracing in 1974 was legal in 30 States and available to about 80 percent of the population. Sixty-eight percent of the people living in the horseracing States said legalization should continue, 13 percent were uncertain, and only 19 percent opposed legalization. By contrast, in the States without tracks, half of those interviewed favored legalization and half opposed it.

People with higher incomes and more education generally were more favorable to legalization, as were those in the lower age brackets. Most regional opposition to legalization came from the South.

STATE RACING COMMISSIONS

Of the 32 States that conduct parimutuel wagering, 19 have licensed thoroughbred racing; 19 have harness racing; 4, quarter horse racing; 9, mixed racing;[27] 10, dogracing; and 3, jai alai. Each of the States has established some form of State racing commission to regulate those parimutuel activities. The commissions themselves vary in the way they are set up: Membership ranges from 1 person to 11. All members are appointed by the Governors but only 19 States require approval of the appointments by the State legislatures or council. About two-thirds of the commissioners are unsalaried, and most of the others receive only token remuneration. Terms of office, appointment of chairmen, and other administrative approaches also differ (see table 5-31).

Twenty-three racing States prohibit racing commissioners from holding any financial interest in racetracks within those States; nine States appear to have no restrictions in this regard. Only 8 of the 30 horseracing States prohibit racing commissioners from owning horses that race in the State. Similarly, most racing States do not prohibit racing commissioners from betting on races, although all of these same States do prohibit track officials and parimutuel employees from betting on races at which they are acting in an official capacity.

Regulatory Authority

Every facet of racing, from parimutuels to security and from drug testing to public accommodations, comes within the commissioners' purview. Racing in each State is governed by that State's statutes, and each racing commission in each State promulgates its own racing rules and procedures. Nonetheless, there are many similar regulations among the jurisdictions, and reciprocity is the general rule. A penalty given a licensee of any State is usually honored by all other States.

RACING DATES. The allocation of racing dates is an important—and often controversial—power granted to State racing commissions. All States limit the number of racing dates, and the pressures on racing commissioners in awarding those dates can be strong. Most commission regulations require that racing dates be allocated to "qualified" (licensed) racing associations capable of conducting races "in the public interest," but commissioners still have considerable discretion.

LICENSING. The categories of racing participants required to be licensed vary from State to State. All States require that the racing associations that conduct the races undergo background checks, and some States require that each association be responsible for all personnel, including concessionaires ~~and other~~ contractors. Horse owners, trainers, jockeys, stewards, and backstretch personnel all must obtain licenses and pay the required fees. Bases for denying licenses include criminal records, false representation on license applications, failure to disclose true ownership of a horse, and inadequate training for a particular job, among others.

RACING RULES. Each commission establishes its own racing rules, which might cover such items as race entry conditions, eligibility of certain horses and dogs, post position, handicapping, racing weights, jockeys' fees, and claiming race requirements. All types of parimutuel wagering, including exotic bets, are determined by the commissioners. In addition, the commissions set out wagering restrictions, which might cover some types of betting by jockeys or wagering by persons with criminal backgrounds or criminal intent.

PROFESSIONAL STANDARDS. The commissions, through their licensing and other procedures, set the professional standards for track personnel. Duties are established for all track officials including stewards, paddock judges, starters, timers, and veterinarians. The commissions also determine the grounds for suspension or revocation of licenses: these cover, among other things, violations of medication and horse testing regulations and general "good conduct" regulations, and criminal violations such as bribery and illegal wagering.

TABLE 5-31 – STATE RACING COMMISSIONS—JURISDICTION COMPOSITION & PROHIBITED ACTIVITIES

	Status of parimutuel wagering in State																			Prohibited ac[illegible] Commissioners			Wagering [illegible]			
	Thoroughbred	Harness	Quarter Horse	Appaloosa	Arabian	Greyhound	Jai Alai	Number of Members	Governor Appointed	Senate Approved	House Approved	Governor's Council or Other Approved	Chairman Chosen by	Indefinite Tenure	Tenure of Office (Years)	Statutory Provision for Reappointment	Salary or Per Diem	Travel and Expenses	Statutory Provision for Bond	Pecuniary Interest in Tracks	Race Own Animals in State	Wager at Tracks in State	Owners on Animals not Their Own	Trainers on Animals not Their Own	Jockeys on Animals not Their Own	[illegible]
ALA-Mobile C [1]	—	—	—	—	—	X	—	3	NA	NA	NA	X	C	NA	3	X	X	X	X	no	no	—	—	—		
ARIZONA	[illegible]			[illegible]	[illegible]	[illegible]	—	[illegible]	[illegible]	[illegible]	—	—	—	NA	6	—	X	X	X	—	—	—	—	—	no	[illegible]
ARKANSAS	X	—	—	—	—	X	—	5	X	X	—	—	G	NA	5	[illegible]	X	X	—	no	no	X	—	—	no	no
CALIFORNIA	X	X	X	X	X	—	—	3	X	—	—	—	C	NA	4	X	no	X	—	no	—	—	no	no	no	
COLORADO	X	X	X	X	O	X	—	3	X	—	—	—	—	NA	6	—	no	X	—	—	—	—	—	—	no	no
CONNECTICUT-CSR	O	O	—	—	—	X	X	9	5	2	2	—	C	NA	6	—	X	—	X	no	no	no	—	—	no	no
DEL-Thoroughbred	X	—	—	—	—	—	—	4	X	—	—	—	G	NA	6	X	no	X	X	no	—	—	—	—	no	no
DEL-Harness[2]	—	X	—	—	—	—	—	3	X	—	—	—	C	NA	6	X	no	X	X	no	no	—				
FLORIDA-DPMW[3]	X	X	X	X	O	X	X	1	NA	NA	NA	X	NA	X	NA	NA	X	—	—	no	no	no	—	—	no	no
IDAHO	X	—	X	X	—	—	—	3	X	X	—	—	C	NA	6	—	X	X	—	—	no	no	—	—	no	no
ILLINOIS	X	X	O	X	—	—	—	7	X	X	—	—	C	NA	6	—	no	X	X	no	—	—	—	—	no	no
KY-Thoroughbred	X	—	—	X	—	—	—	5	X	—	—	—	C	NA	4	X	no	X	—	X	X	—	—	—	no	no
KY-Harness	—	X	—	—	—	—	—	5	X	—	—	—	C	NA	4	—	—	—	—	—	—	—	no	no	no	no
KY-QH & Appa.	—	—	O	O	—	—	—	5	X	—	—	—	C	NA	4	—	—	X	—	—	—	—	—	—	no	no
LOUISIANA	X	—	X	O	—	—	—	9	X	—	—	—	G	X	NA	—	X	X	X	no	no	—	—	—	no	no
ME-Thoroughbred	O	—	—	—	—	—	—	3	X	—	—	X	G	NA	3	—	—	—	—	no	—	—				
ME-Harness[2]	—	X	—	—	—	—	—	3	X	—	—	X	C	NA	3	—	X	X	—	no	—	—				
MARYLAND[4]	X	X	O	—	—	—	—	5	X	—	—	X	G	NA	5	—	X	X	X	no	—	—	—	—	no	no
MASSACHUSETTS[5]	X	X	—	O	—	X	—	3	X	—	—	—	G	NA	8.3	—	X	X	—	—	—	—	—	—	no	no
MICHIGAN	X	X	—	—	—	—	—	3	X	—	—	—	G	X	NA	—	X	X	X	—	—	—	—	—	no	no
MONTANA	X	—	X	X	—	—	—	5	X	X	—	—	C	NA	3	—	X	X	—	X	X	—	—	—	no	no
NEBRASKA	X	O	X	X	O	O	X	3	X	—	—	—	C	NA	3	—	no	X	X	—	X	—	—	—	no	no
NEVADA[6]	X	—	X	X	—	O	X	5	X	—	—	—	G	NA	4	X	X	X	X	X	X	—				
N H – Horse	X	X	—	—	—	—	—	3	X	—	—	X	G	NA	3	—	X	X	—	X	—	—	—	—	no	no
N H – Dog	—	—	—	—	—	X	—	3	X	—	—	X	G	NA	3	—	X	X	—	X	—	—	—	—	NA	
NEW JERSEY	X	X	—	—	—	—	—	4	X	X	—	—	G	NA	6	X	no	X	X	—	—	—	—	—	no	
NEW MEXICO[7]	X	—	X	X	—	—	—	5	X	X	—	—	—	NA	6	—	—	X	—	X	—	—	—	—	no	no
N Y – Rac & Wag	X	X	O	—	—	—	—	3	X	X	—	—	G	NA	6	—	X	X	—	X	X	X			[illegible]	
N Y – Thoroughbred	X	—	—	—	—	—	—	3	X	X	—	—	G	NA	6	—	X	X	—	X	X	X	—	—	no	no
N Y – Harness[8]	—	X	—	—	—	—	—	3	X	X	—	—	G	NA	6	—	X	X	—	X	X	X	X	X	no	no
N Y – Q Horse	—	—	O	—	—	—	—	3	X	X	—	—	G	NA	6	—	X	X	—	X	X	X				
OHIO[9]	X	X	X	X	—	—	—	5	X	X	—	—	G	NA	4	X	X	X	X	X	X	X	—	—	no	no
OREGON	X	O	X	X	O	X	—	5	X	X	—	—	C	NA	4	—	X	X	X	X	X	X	—	—		
PA – Thoroughbred	X	—	—	—	—	—	—	3	X	X	—	—	G	NA	3	—	no	X	—	X	X	X	—	—	no	no
PA – Harness	—	X	—	—	—	—	—	3	X	X	—	—	—	NA	3	—	no	X	—	X	X	X	X	X	no	no
RHODE ISLAND	X	O	—	—	—	—	O	3	X	—	—	—	C	NA	6	—	X	—	—	—	—	—				
SOUTH DAKOTA	X	—	X	O	—	X	—	5	X	—	—	—	—	NA	5	—	X	X	—	X	—	—	—	—	no	no
VERMONT[10]	X	X	—	—	—	O	—	3	X	X	—	—	G	NA	6	—	X	X	—	X	X	X	—	—	no	no
WASHINGTON	X	O	X	X	—	—	—	3	X	X	—	—	C	NA	6	X	X	X	X	X	—	—	—	—	no	no
WEST VIRGINIA	X	X	—	—	—	—	—	3	X	X	—	—	C	NA	4	X	X	X	—	X	—	—	—	—	no	no
WYOMING	X	—	X	X	—	—	—	5	X	X	—	—	C	NA	4	—	X	X	—	X	X	X	—	—	no	no

Legend

X = Yes, also means form of racing legal and conducted in State
O = Form of racing legal but not conducted in State
G = Chairman appointed by Governor
C = Chairman elected by members of Commission
NA = Not applicable
no = Prohibited activity
— = Subject not covered in law or regulations

Explanations and Footnotes

The sources for table 5-31 included the Racing Law from each of the 32 State statutes and the Rules and Regulations promulgated by each of the respective Racing Commissions. Information contained in table 5-31 concerning the Racing Commissioners was generally obtained through the Racing Laws, and the section dealing with prohibited activities of licensees was compiled from regulations contained in the individual State Racing Commission sets of Rules and Regulations. Although the Gambling Commission was able to obtain almost all of the individual State Rules and Regulations, several State Racing Commission Rules and Regulations were not made available for use by the Commission thereby causing a number of blank sections in the portion of table 5-31 concerning licensees. Any omissions and inaccuracies will be corrected if brought to the attention of the Gambling Commission. As the actual practice of a State Racing Commission may differ somewhat or may be more inclusive than can be determined by reading an individual State's statutes and regulations, the Gambling Commission will of course revise table 5-31 to conform with the actual practice and procedures of the individual State Racing Commissions if such practices have in any manner been misinterpreted or misquoted by the Commission. For the purposes of this Table the term [illegible] means those Stewards, Judges, Starters, parimutuel department [illegible], paddock judges, placing judges, Racing Secretaries, etc. [illegible] individual State Racing Commissions and employed by the [illegible] Racing Associations to supervise and regulate racing programs. [illegible] generally included in the term "backstretch personnel" are [illegible] included under the title "Racing Officials."

1 ALA-Mobile C – First Commissioner appointed by two-third [illegible] of members elected to the Legislative Delegation of the County with consent of the County Governing Board. Second Commissioner appointed by Mobile County Foundation for Public Higher Education if such foundation shall have been created heretofore in such county and, if there is no such foundation then such member shall be appointed in same manner as third commissioner. Third Commissioner appointed by a majority vote of the [illegible] Mobile County, each municipality being entitled to [illegible] of the Commissions or Councils of said municipality determining how said vote is cast. Each appointment heretofore described shall be subject to the approval of a majority vote of the Board of County Commissioners before said appointment takes effect.

SECURITY. Th[illegible] track security through controlled entry to certain areas, identification requirements, special exemptions, and fire and safety regulations.

TAXATION. Although a State's takeout from a racing meet is determined by the State legislature, the State racing commission often acts as the tax collector for the State, and as such may be required to handle the bookkeeping and other duties associated with tax collection.

RACING INDUSTRY ORGANIZATIONS

Although it is the State racing commissions whose rulings have the force of law, the racing industry supports a variety of self-regulatory and protective organizations. These organizations, which represent individual segments of the industry, are understandably protective of their own interests. Whereas discord and antagonism were once the rule among the various independent groups, the growing realization that the racing industry has been hurt by its disunity has prompted its leaders to seek ways of improving cooperation. At the same time, those within the racing industry unanimously reject the notion that unity should be imposed upon them by the Federal Government, fearing that participation on the Federal level would be accompanied by new Federal taxation. Nor are those States that permit parimutuel wagering willing to give up their regulatory authority in the interest of uniformity within the industry.

It may well be true that total consolidation of interests and authority within the parimutuel industry would be less helpful than the current situation. The character of racing differs substantially from State to State, and the problems of one segment of the industry, although affecting its other components, may require specialized treatment that a superagency could not provide. Today, while remaining independent and sometimes overprotective of their own interests, the racing organizations as a group constitute a significant body of expertise for the industry. Together with the State racing commissions, they provide a system of checks and balances that is capable ultimately of devising equitable solutions to the industry's various problems.

The National Association of State Racing Commissioners (NASRC) is composed of legally constituted State or governmental boards or commissions on racing. It promotes the adoption of uniform procedures and reciprocity of enforcement, regulations, and penalties among the States allowing parimutuel racing. One of the association's most significant contributions to the industry was the creation of a centralized computer information network called NASRIS (National Association of State Racing Information Service). To aid in its own research, the National Gambling Commission supplemented the NASRC funding to complete and expand the system. Although the information in NASRIS is available to all State racing commissions, only 15 support it financially. The system's operation is discussed later in this section.

The American Horse Council (AHC) was established in 1969 to represent the horse industry before the Federal

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Explanations and Footnotes contin.

2 DEL-Harness—A copy of this Commission's Rules and Regulations was not made available for use by the Gambling Commission. The following State Racing Commissions also did not forward copies of their regulations to the Gambling Commission: Maine Racing Commission, Maine Harness Racing Commission, Nevada Racing Commission, New York Racing and Wagering Board (New York Quarter Horse Racing Commission), and the Rhode Island Racing and Athletics Commission. The Puerto Rico Racing Sport Administration has not yet been contacted by the Gambling Commission.

3 FLORIDA-DPMW—The 1971 Florida legislature transferred the Florida State Racing Commission to the Department of Business Regulation and assigned the Racing Commission's functions to the Division of Parimutuel Wagering of the Department of Business Regulation. The Division is supervised overall by a Board of Business Regulation which also supervises the Division of Beverage, the Division of Hotels and Restaurants, and the Division of General Regulation. The Board of Business Regulation is the only entity that can fix dates for racing, and the Division recommends such dates when requested. The Director of the Division of Parimutuel Wagering is chosen by the Executive Director of the Department of Business Regulation who is appointed by the Board of Business Regulation. Members of the Board of Business Regulation are appointed by the Governor.

4. MARYLAND—Racing Commission nominees require the consent of the Secretary of Licensing and Regulation as well as the Governor to be appointed members of the Maryland Racing Commission. Similarly, the Chairman of the Commission is appointed by the Governor with the approval of the Secretary of Licensing and Regulation.

5. MASSACHUSETTS—The State Racing Commissioner is appointed for a term of 8 years. The two Deputy Commissioners are appointed for terms of 3 years each.

6 NEVADA—(A) Jai alai is conducted in the State of Nevada, but is under the supervision of the Nevada Gaming Commission.
(B) Members of the Commission may not enter their own greyhounds in races conducted in Nevada, but there appears to be no restriction concerning the entrance of a Commissioner-owned horse in races conducted in the State.

7 NEW MEXICO—Rules and Regulations 9.11 Jockeys, Jockey Attendants, or other Jockey Room employees while on duty at a race track licensed by the Commission shall not directly or indirectly wager on the results of a race, or have any ownership or financial interest in any horse registered to race at the Meeting.

8 N.Y.-Harness—(A) No owner, driver, employee, etc., may participate in exacta, quinella, superfecta, or triple wagering on a race in which a horse in which such person may have an interest is starting.
(B) No officer, director, executive, or spouse thereof, of a track may enter a horse in which he has any beneficial interest in any overnight event at said track.

9 OHIO—The Gambling Commission construes the meaning of the following clause contained in the Ohio Racing Law to mean that no Commissioner may enter horses, wager at tracks located in Ohio, or have any interest whatsoever in Racing Associations licensed by the State:
(A) Title 37 Health [illegible] Chapter 3769 §3769.02
"No person shall be appointed to the Commission nor be an employee thereof nor officiate at parimutuel meetings conducted in this State who is licensed or regulated, directly or indirectly by this Commission other than for the position to which he is appointed nor shall he have any legal, or beneficial interest, direct or indirect, pecuniary or otherwise, in any firm, association, or corporation licensed or regulated or which participates in parimutuel meetings in any manner, nor shall he participate in parimutuel meetings in any manner other than in his official capacity."
(B) No Association member or employee may enter horses in which he has a direct or indirect interest at any meeting where racing is conducted under his permit, except in stakes and futurities.

10 VERMONT—The Gambling Commission construes the meaning of the following clause contained in the Vermont Racing Law to mean that no Commissioner may enter horses in races conducted in Vermont, wager at tracks located in Vermont, or have any interest whatsoever in Racing Associations licensed in that State.
Chapter 13 Horse Racing §602 (c) " No member of the Commission shall have any pecuniary interest in any racing or in the sale of parimutuel pools. "

Government. At that time, the AHC attempted to protect the industry from what it felt were oppressive Federal tax proposals then under consideration in Congress. Taxation continues to be a major concern of the organization, as does State and Federal regulation of the industry. In the short time since its creation the AHC has become the greatest aggregate representative of the industry. The AHC is potentially the most influential voice representing the entire horse industry's concerns before Congress.

The prestigious Jockey Club was formed in 1894 for the purpose of organizing and regulating thoroughbred racing. Over the years the club developed a number of procedures that are now standard in racing. Its stud book, maintained since the club's inception, provides a record of all American thoroughbreds; the starting gate, originally suggested by the club, today is used throughout the world; the photo-finish camera was developed through the efforts and funds of the club; and drug testing, horse identification procedures, and film patrol movies are among its other innovations. The Jockey Club also provides a forum for constructive debate about the industry's problems. Each year the club sponsors round table discussions in Saratoga, New York, and publishes a summary of all the issues discussed. The club also funds various economic studies that benefit racing's interests.

An influential organization representing track owners is the Thoroughbred Racing Association (TRA), established in 1942 to "promote the best interests of thoroughbred racing." TRA developed standards for its member tracks designed to keep the industry and the sport highly competitive, free of corruption, and entertaining for the spectator. TRA's 56 member tracks spend approximately $13 million annually on track security.

The Thoroughbred Racing Protective Bureau (TRPB) is the investigative arm of the TRA. It was established in 1946 to enforce compliance with TRA standards. Its investigators are financed by TRA member tracks at an annual budget of more than $1 million. The results of TRPB inquiries are given to [illegible] and TRA officials and State racing commissions for either corrective or disciplinary action. The security standards adopted by the TRPB are stringent and comprehensive, and, if applied uniformly to all parimutuel wagering, would result in substantial improvements in track security throughout the industry.

The U.S. Trotting Association (USTA) was formed in 1938 to bring order to a sport torn by dissension. The USTA provides a wide variety of services to its nearly 40,000 members—horse owners, drivers, caretakers, breeders, and track personnel. The association's rules and regulations have been adopted or emulated by harness racing commissions in almost every State where this type of racing is offered. The USTA also serves as a clearinghouse providing registration, recordkeeping, and other information to tracks and various racing commissions. The association has supported research projects that have resulted in such innovations as prerace testing and improved control of equine diseases.

Harness Tracks of America (HTA), headquartered in Chicago, represents 50 harness tracks in this country and Canada. It is dedicated to the maintenance, promotion, and advancement of harness racing. Members of HTA underwrote the independent Harness Track Security (HTS) in 1968. HTS provides security at 33 harness tracks. Its mission is to identify and ban persons and practices that may tarnish the sport. HTS personnel are assigned to investigate all rumors and allegations of wrongdoing and report their findings to individual State racing commissions, to the tracks, and to prosecutors when evidence of wrongdoing has been obtained. Harness Horsemen International (HHI), established in 1964, comprises 19 local organizations, 17 of which are in the United States; it speaks for these associations at national and international levels. It also provides an extensive insurance program for backstretch personnel as part of its effort to attract qualified employees.

The Thoroughbred Owners and Breeders Association (TOBA) is a relatively small organization formed in 1961 by a merger of earlier, similar organizations. Its purpose is to promote, protect, and improve thoroughbred breeding and racing. Its interests are alined with the breeders and other persons whose primary income is generated by the commercial activities connected with thoroughbreds.

The Jockeys' Guild was organized in 1940 to protect the health, welfare, and legal interests of jockeys. In addition, the guild has promoted a number of features to insure the safety and integrity of jockeys, including closed starting gates, photo-finish cameras, and the film patrol. Another employee welfare group is the Horseman's Benevolent and Protective Association (HBPA). Founded in 1940, this organization's membership includes more than 40,000 thoroughbred owners and trainers in the United States, Canada, and Puerto Rico, as well as more than 100,000 employees of its members. The HBPA represents its members in dealing with racing associations with respect to purse contracts, improvement of backstretch facilities, and other matters of interest to horsemen. The HBPA distributes more than $1 million annually to needy horsemen and their employees.

Quarter horse racing is increasing in popularity, particularly as the number of racing dates increases. The American Quarter Horse Association (AQHA), based in Amarillo, Texas, represents the breeders, owners, and trainers of quarter horses. Among its activities, AQHA records the pedigrees of quarter horses, publishes the stud book, and conducts promotional and educational programs on quarter horses. It also helps make and enforce rules for recognized quarter horse racing at many tracks throughout the country.

The American Paint Horse Association, the Appaloosa Horse Club, the Arabian Horse Racing Association, and the Arabian Horse Racing Registry of America are all small but growing associations that represent emerging horse breeds of increasing interest to the racing industry.

The National Greyhound Association was founded in 1906. Its membership consists of more than 3,000 greyhound owners and breeders. The NGA maintains a registry of all greyhound racing dogs. The association's extensive identification system, which includes ear tattoos, is the basis for the rigid inspection and identification of greyhounds at the track. A newly formed greyhound organization is the United Greyhound Association, established in March 1976 to fill the void created when the National Greyhound Association withdrew from the political arena to resume its traditional role as the national greyhound registry.

The American Greyhound Track Operators Association (AGTOA) is composed of the owners and operators of all greyhound tracks in the United States. The AGTOA is active in the areas of advertising, public relations, chemistry, and health research. The AGTOA currently is developing a computer information system which, when completed, will provide racing history and past performance records on all racing greyhounds. Through computers in Lexington, Kentucky, and with terminals at every track, the system will be able to provide instant access to past-performance information.

There is no national jai alai association. Jai alai, though legal in four States, is conducted in only three.

INDUSTRY PROBLEMS—HORSERACING

Judged by outward appearances, the racing industry is economically sound and its future appears bright. Statistics compiled by the NASRC indicate that the number of racing dates, betting handle, per capita bets, and race track attendance are increasing each year. But these figures are deceptive. Horsemen, breeders, trainers, and track owners have found cause for alarm in the state of racing today. Most of their concerns are economic, and while there is general agreement in defining problems, there is little consensus regarding solutions. Because the various segments of the industry represent fragmented and often competing interests, changes proposed by one faction are likely to be accomplished at the expense of another. The three principal interest groups in racing are the State, the tracks, and the horsemen.

The State

Many people within the racing industry consider the State to be their silent partner, taking a substantial portion of the proceeds and contributing little to the industry in return. The State plays an active role in racing through its regulatory powers, but its main interest in the industry is economic. Although taxes on parimutuel wagering constitute only a small percentage of the total budget of most States, the States would be extremely reluctant to relinquish this source of income, and in fact, are continually seeking ways to increase it. In the past 10 to 15 years, the average total parimutuel takeout has increased from an average of 12 percent to an average of 15 to 17 percent, and the State's share of the increase has been proportionately greater than that of the tracks and horsemen. Studies have shown that the size of the takeout directly influences race track attendance and thus the size of the handle. At the Aqueduct meeting in the fall of 1974, the total takeout was reduced from 17 to 14 percent for 23 days. While the lower takeout was in effect, average daily handle and attendance both increased approximately 16 percent. It is not known, however, whether the revenues gained through attendance and handle would in the long run make up for the revenue lost as a result of the lowered takeout, and most States appear unwilling to take the risk.

The States' constant desire for greater revenue from parimutuel wagering has also been expressed through significant increases in the number of racing dates. With the addition of each new racing date, the State increases its parimutuel revenue with little or no additional expense to itself. That the State should be anxious to exploit this ready source of income is not difficult to understand. Politically, it is much more expedient (if not efficient) to increase parimutuel levies and racing dates than to raise taxes. From the State's point of view, gambling offers the public a relatively "painless" form of taxation. But the racing industry has become increasingly sensitive to the effects of State efforts to increase the parimutuel revenue base and the methods employed to accomplish this end.

The Tracks

The steady increase in racing dates over the past 11 years has made racing more accessible to the public. Total attendance at horseraces increased 25 percent between 1965 and 1975, compared to an approximate 12 percent increase in the Nation's population during that period. The rate of attendance increase, however, has not kept pace with the rate of increase in racing dates. As stated earlier, average daily attendance per racing meet has actually decreased by 23 percent.

The number of small thoroughbred tracks [28] increased from 69 in 1960 to 84 in 1974. No new large thoroughbred tracks were added to the 9 already existing during that period,[29] but a huge multisports complex has recently opened in New Jersey that competes directly with New York's large Aqueduct and Belmont tracks as well as with the smaller thoroughbred and harness tracks nearby.

Although each State attempts to avoid overlapping racing schedules among nearby tracks, the proliferation of racing days in recent years has made heavy competition inevitable in some areas. In New York, for example, although there is no hourly overlap between the racing schedules of the various tracks, the tracks are nonetheless competing for a finite number of fans and racing dollars. The dilution of a finite racing market through the extension of the racing season appears to be one of the principal causes of declining track profitability in some areas of the country, although further research on this problem needs to be conducted before any firm conclusions are drawn.

In 1973, the New York Racing Association tracks experienced a $1.8 million operating loss, despite an increase that year in the tracks' share of the takeout. NYRA showed a small profit in 1974 but in 1975 it lost more than $3 million, due primarily to construction and plant improvement expenditures and debts incurred in previous years.

Noncooperation among States in the licensing of racetracks and the allocation of racing dates can also cause economic hardship for the tracks, since racing markets do not confine themselves to State boundary lines. Keystone Racetrack in Pennsylvania is located just 20 miles away from the Delaware Park track in Delaware. The overlapping schedules of these tracks work to the detriment of both. Cooperation among States on a regional basis—with regard to both the construction of new tracks and the allocation of racing days—is needed in order to avoid destructive interstate competition. Pennsylvania and New Jersey racing authorities have begun coordinating their racing schedules for tracks near these States' contiguous borders.

The quality of track facilities is also believed to affect attendance directly. When tracks operate profitably, they are able to reinvest a portion of their income for track maintenance and facilities improvement. But as track profits decline, there is less money available for this purpose. Experience has shown that as track facilities become shabby, attendance declines; the betting handle—along with income from parking and admission—declines, leaving even less money for track maintenance and further discouraging attendance.

Declining daily attendance may be on a collision course with rising track operating costs. As each day's operation becomes less profitable, the future of many tracks becomes more uncertain. For each day that racing is conducted, the track has specific operating expenses. It has a large payroll of waiters, porters, parking attendants, bartenders, mutuel clerks, racing officials, traffic control personnel, ushers, and admissions personnel. The tracks also must meet rising backstretch costs, among them outlays for housing, water and electricity, food, and in some cases education, recreation, and even religious services. The track operation only remains profitable as long as its income from admission, concessions, and betting exceeds its daily operating costs. Obviously, as attendance decreases, so do revenues from these three sources.

In 1974, the Jockey Club commissioned a study [30] to determine the future of thoroughbred racing in America. Using a computer model, the study examined three basic areas: the industry's most critical problems, a 10-year forecast based on a continuation of current trends, and an exploration of possible changes that could benefit the industry. Although the study applied only to thoroughbred racing, many of the problems identified apply as well to other forms of horseracing.

With respect to thoroughbred racetracks, the study forecast a rather bleak future, assuming the continuation of current trends. It predicted that large tracks, which had experienced respectable profits throughout the 1960's and early 1970's, would hover at or slightly below the break-even line from the late 1970's through 1984, during which time two large tracks would close. Small tracks, which had been more profitable than large tracks during the 1960's, began to lose money rapidly in the 1970's and would continue to do so, the study predicted, until around 1980, when the closing of many small tracks would begin to benefit those that remained.

The computer study examined 13 policy changes and the effect of each on various segments of the industry. Most of the changes involved increases, decreases, or reapportionment of the takeout; others dealt with further increases in racing days, changes in Federal tax laws, and the expansion of off-track betting. Among the policy changes recommended by the study that would benefit racetracks, but not necessarily other segments of the industry, were the following:

- Increasing the track's share of the takeout and using the increase for facilities maintenance and improvement.
- Reducing the State's takeout by 1 percent.
- Introducing intrastate OTB in areas where its competition with tracks is minimal and using the same takeout split for both on-track and off-track betting.

None of these solutions was offered as a panacea for track owners; rather, they were policy changes that the study predicted would result in fewer track closings than the number that has been forecast on the basis of a continuation of current trends.

Among the policy changes that would be most harmful to the tracks were: increasing the State's or the horsemen's takeout; further expanding racing dates; and establishing OTB in direct competition with the tracks. Unfortunately, so little of the workings of the study model have been made public that only limited confidence can be placed in its predictions.[31]

Because many State racing commissions have inadequate auditing and reporting requirements for racetracks, it is sometimes difficult to determine actual track profitability. This problem was underscored in a recent report issued by the New York State Commission on Investigation.[32]

The Horsemen

Of the three principal recipients of revenue from the racing industry—the State, tracks, and horsemen—the problems of horse owners and breeders appear to be the most severe. The average horse owner or breeder is accustomed to losing money. But there are a number of intangible rewards in the breeding, training, and racing of horses that for many horsemen outweigh economic consideration. In the past few years, rapidly rising costs and attempts by the Federal Government to redefine the tax status of horsemen have caused even the most tenacious owners and breeders to worry.

The only source of income for horse owners is the purses paid to winning horses. Since 1970, the cost of owning and breeding racehorses has increased much more rapidly than the fairly substantial increase in purse size. As shown in table 5-32, horsemen's purses increased 245 percent from 1965 to 1975, taking into account the effects of inflation, total purses increased 44 percent. But as table 5-33 shows, these figures can be deceptive. Thoroughbred purses increased 116 percent from 1965 to 1975, or 27 percent after accounting for inflation. But because the number of horses in training also increased substantially during this period, real earnings per horse actually decreased by 19 percent when adjustments for inflation were made.

Out of each purse he wins, the horse owner must pay the jockey and the trainer. The trainer in turn pays the salaries of the various backstretch personnel, plus transportation, blacksmith, veterinarian, and other expenses. In 1971, maintenance expenses for New York horsemen exceeded net purses by approximatly $4.8 million; in 1974, expenses exceeded purses by $8.2 million. The same year, the average after-tax loss per thoroughbred owner, nationwide, was about $6,000.

TABLE 5-32.—HORSEMEN'S PURSES, 1965-1975

Year	Current dollars	1967 dollars
1965	$169,971,331	$179,863,633
1966	176,699,192	181,789,292
1967	174,176,696	174,176,696
1968	206,275,040	197 960,691
1969	232,395,558	211,653,513
1970	254,848,551	219,130,310
1971	267,740,957	220,726,262
1972	281,551,208	224,701,682
1973	341,603,461	256,844,707
1974	378,851,952	256,500,983
1975	417,326,511	259,209,013
	Percent change 1965-1975	
	+245	+44

TABLE 5-33.—THOROUGHBRED PURSES, 1965-1975

Year	Thoroughbreds in training*	Thoroughbred purses Current dollars	Thoroughbred purses 1967 dollars	Annual purse per horse Current dollars	Annual purse per horse 1967 dollars
1965	35,000	$109,798,526	$116,188,359	$3,137	$3,195
1966	37,000	115,433,441	118,758,230	3,119	3,208
1967	39,000	122,874,514	122,874,514	3,150	3,150
1968	41,000	132,015,928	126,934,134	3,219	3,095
1969	44,000	149,011,014	136,706,422	3,386	3,106
1970	47,000	162,895,833	140,426,724	3,465	2,987
1971	49,000	166,199,701	137,354,545	3,391	2,802
1972	52,000	173,070,030	138,456,000	3,328	2,662
1973	54,000	216,740,781	162,962,406	4,013	3,071
1974	55,000	223,478,146	152,025,850	4,063	2,763
1975	57,000	237,480,527	147,503,105	4,166	2,587
			Percent change 1965-1975		
	+54	+115	+27	+33	−19

Year	Thoroughbred owners*	Annual earnings per owner Current dollars	Annual earnings per owner 1967 dollars
1965	18,000	$6,099	$6,464
1966	19,000	6,075	6,250
1967	20,000	6,143	6,143
1968	21,000	6,286	6,044
1969	22,500	6,623	6,076
1970	24,000	6,787	5,851
1971	24,500	6,784	5,607
1972	25,000	6,923	5,538
1973	26,000	8,336	6,268
1974	27,500	8,126	5,528
1975	29,000	8,188	5,086
		Percent change 1965-1975	
	+61	+34	−21

*Approximate numbers

A recent change in the tax status of horse owners has added to their plight. Prior to 1969, horsemen were permitted to deduct their racing losses from income they made through other businesses, on the theory that they were providing a valuable agricultural service by working to improve the breed. In 1969, however, the tax law was amended to disallow deductions from activities not engaged in for profit. Currently, in order to continue deducting racing losses, horse owners must turn a profit at least 2 years out of every 7. With costs rising rapidly, few horsemen today can expect to do that well. As horsemen experience increasingly heavy losses, many may be forced out of the racing business.

The fate of horse breeders and trainers is linked to that of the owners. If the number of owners declines so could the number of horses racing, and hence the demand for breeders and trainers, farm and backstretch workers.

As a result of the rapid increase in racing dates, there are sometimes too few quality horses to fill thoroughbred racing programs at the larger tracks. Smaller tracks also are affected by the shortage. Since the large tracks can accommodate larger crowds they can offer higher purses. The higher purses in turn attract the best horses, leaving the smaller tracks to settle for the slowest horses. Research has shown that attendance decreases when the quality of horses declines and when there are too few horses in a race (short fields), but comprehensive studies in this area have yet to be conducted. Horse owners currently attempt to meet the tracks' demands for horses by racing their horses at a younger age and more often than they otherwise might, practices which increase the horse's risk of injury and shorten its racing career.

Owners of quarter horses believe they have a solution to the problem—mixed thoroughbred and quarter horse racing programs. Thoroughbred owners strongly oppose the concept of mixed programs, believing that such programs reduce the handle on thoroughbred races Quarter horse owners disagree.

Law Enforcement

Whenever large sums of money change hands quickly, as in parimutuel wagering, certain law enforcement problems arise. The primary problems of horseracing involve (1) attempts to influence the outcome of races illegally; (2) parimutuel fraud; (3) hidden ownership of racetracks; and (4) political impropriety in matters affecting racing, such as in the assignment of racing dates or the granting of licenses. A brief discussion of each of these problems follows:

RACE FIXING. Parimutuel wagering offers the successful bettor a legal method of "earning" a great deal of money in a short time with a minimum of effort. As such, it may be particularly attractive to those who seek to eliminate the element of chance in wagering by prearranging the outcome of a race—in short, to fix a race.

The quality of track security varies considerably from track to track and from State to State. There is general agreement among those within the industry that there is room for improvement in this area. Some critics of current security arrangements believe that potential for conflict of interest exists in the use of TRPB or HTS investigators, since these personnel are hired and paid for by the members of the racing industry itself. The concept of self-policing by a sports industry is not unique to horseracing, however. The National Football League, for example, employs an extensive internal security force.

In May 1972, a congressional committee conducted a series of hearings on criminal activity in sports. In its various hearings around the country, the National Gambling Commission also heard testimony on the subject. Based on information gathered by the Commission both through its hearings and outside research, three general methods of race-fixing have been identified. The first two methods—bribery and "ringers"—occur infrequently today, and it appears that current State and Federal laws are adequate to deal with such cases. The use of the third method—illegal medication—also is becoming increasingly difficult to engineer due to improved testing procedures. Following is a brief description of each method.

1. Bribery. Attempts may be made to bribe either a single jockey or a group of jockeys to fix a race. (In Illinois a few years ago, a jockey was induced to use an electrical prodder to stimulate his horse's performance.) Bribery is an expensive and risky means of fixing a race, since usually more than one individual must participate to insure a particular outcome

2. Ringers. The use of ringers, or "straws"—the substitution of a faster horse for a slower one of similar appearance—was once fairly common practice and one not too difficult to accomplish. The institution of the lip tattoo by the TRPB, however, makes it much more difficult to substitute horses. Since many horseraces and dograces are "classified" events—i.e., animals of similar abilities compete against one another—the substitution of a fast horse in a field of slower horses assures the fixer of an almost foolproof bet, providing his scheme escapes detection. Today, however, identification of each animal is carefully verified by track stewards and management personnel.

3. Illegal medication. With the use of ringers made extremely difficult, if not impossible, race-fixers turned to other methods, one of which was the use of prohibited medications as a means of predetermining the outcome of a race. In most States, testing for the presence of illegal medication is performed after each race, always on the winning horse, and in some cases on losing horses selected at random. Tightened backstretch security and improved testing techniques have reduced but not eliminated the incidence of illegal drug use. Compounding the problem is the ever-present danger that new drugs may be developed that cannot be detected through current testing procedures. At present, testing for illegal medication is a significant expense for the racetracks or the States (procedures vary). The U.S. Food and Drug Administration is responsible for testing the effects of new drugs before they are marketed, but the FDA does not require the drug manufacturer to provide information on how its product

may be detected through testing, nor does it perform this service itself, thereby leaving to the consumer—in some cases the State, in others private racing associations—the often considerable expense of developing testing procedures. One of the more controversial issues surrounding the use of medication regards prerace testing. In theory, prerace testing would have the advantage of enabling the disqualification of illegally drugged horses before the race, thus avoiding the confusion and anger that can erupt in the grandstands when a horse is disqualified after a race. But horse owners object to the practice because they believe it would adversely affect the performance of their horses. The high cost of using mobile labs at the track is another factor that has prevented the institution of prerace testing at most tracks. Prerace testing is currently in effect, however, at New York and Ohio harness tracks.

Many horse owners, racetrack owners, and racing officials believe that exotic wagering fosters race-fixing attempts. If the mere existence of wagering is considered an inducement to race-fixers, then exotic wagering multiplies that inducement many times over by substantially increasing the payoff. The majority of recent race-fixing attempts have involved exotic wagering events.

One way that States work to protect the integrity of racing involves the use of a computerized data bank containing names of all individuals in the horseracing and dogracing industries against whom official rulings have been made. The NASRIS file also contains the names of all individuals licensed by State racing commissions. Theoretically, by a system of reciprocity, States may refuse to license individuals who have had rulings against them in other States. Similarly, if particular horse owners, trainers, jockeys, or racing officials are barred from the tracks in one State, they are to be barred by tracks elsewhere.

PARIMUTUEL FRAUD. The use of sophisticated electronic computers in parimutuel wagering has made it difficult to skim large amounts of money from the parimutuel handle or to operate ticket windows illegally. All racing States require parimutuel clerks to be licensed, but few States conduct careful investigations into the background of clerks or other track employees who handle large sums of money.

HIDDEN OWNERSHIP. The question of hidden ownership of racetracks is currently one of the most sensitive and controversial issues facing the racing industry. Most States do not currently require applicants for racetrack licenses to disclose the sources of all income that will be used to finance their operations. The absence of strict disclosure procedures creates the potential for some racetracks to be owned either by persons who would otherwise be disqualified from licensing because of criminal association or because of their position in State government. The issue facing the racing States today is: Should full disclosure of track ownership be required by law, and if so, should licenses be denied or revoked if it is determined that the applicant or licensee is economically controlled by other individuals?

INDUSTRY PROBLEMS—DOGRACING

The dogracing industry is flourishing. Attendance and handle are increasing, and most tracks are operating profitably. In some States, the takeout rate is slightly lower for dogracing than for horseracing, and that gives dogracing a small competitive advantage.

But the dogracing industry is not entirely without problems. While tracks remain profitable, rapidly rising maintenance costs have some owners worried. Energy costs have soared, causing a considerable financial burden to a sport that is conducted mostly at night. In addition, dog owners are finding it increasingly expensive to care for and feed their animals.

But the most serious problem within the dogracing industry is the conflict that has developed between track owners and independent kennel operators (dog owners and breeders). In 1975, dog owners protesting what they perceived as an inadequate division of the takeout between tracks and themselves, attempted to boycott tracks by refusing to supply them with dogs. Underlying the problem, they felt, was the booking system used throughout the dogracing industry. Unlike the horse owner, who can race his animal at almost any track, the owner of greyhounds must negotiate individually with each track a contract stipulating the percentage of the takeout he will receive and the number of dogs he will supply throughout the racing season. If the dog owner cannot accept the terms offered by the track, he can attempt to reach an agreement with another track. Dog owners believe that they have little or no bargaining power, and they allege that some tracks conspire to keep the purse structure low. This problem is compounded, they believe, by the fact that in some areas a single individual may own or control several tracks, thereby further reducing dog owners' market alternatives. Seven people control or own more than half of the 42 dog tracks in this country. Dog owners believe that these monopolies give track owners undue influence in the judicial and legislative branches of individual State governments.

As a result of the 1975 strikes by dog owners, some tracks were forced to close temporarily. In Florida, a number of strikers were jailed for breach of contract. There and elsewhere, track operators retaliated by acquiring their own kennels and racing their own dogs. The effect of this action was to intensify the antagonism between independent kennel operators and tracks. Dog owners now believe they face a problem even more serious than the purse structure issue. They believe that if tracks are not prevented from racing their own dogs, the majority of independent dog owners will be driven out of business, the quality of racing will deteriorate and thus decline in popularity, and perhaps most important, the integrity of the races themselves will be jeopardized. [33]

On the other side, track operators deny that purse structures in racing are too low or that there has been any collusion among tracks to establish fixed purse rates. Track operators believe that if purses were raised, they would not have enough money to maintain and improve their facilities, which in turn would discourage attendance. They claim that the strikes by dog owners in 1975 forced them to acquire their own kennels in order to stay in business. Finally, they do not believe that the practice of racing house dogs constitutes a conflict of interest since many precautions are taken to keep races honest.[34]

The battle lines between dog owners and track operators have expanded to the courts and legislatures. Apart from antitrust action pending in Arizona, most of the legal maneuvering is taking place in Florida, the largest greyhound racing State. Florida dog owners are attempting to secure passage of three bills—one that would provide for a 3 percent minimum purse structure, one that would prohibit track owners from having any financial or other interest in racing dogs or kennels, and a third that would establish minimum standards for kennels. Two Florida track operators have brought suit against the striking dog owners, who, in turn have filed a counterclaim against seven Florida tracks for conspiring to fix purses and conditions of contracts and for blacklisting kennel operators. In an effort to strengthen their bargaining power with the tracks, greyhound owners and breeders formed a union under the auspices of the AFL-CIO.

Arguments as to the merits of each case aside, the intramural warfare within greyhound racing has the potential to damage the industry severely. There already is evidence that the current feud between dog owners and tracks has made the betting public wary. Two of Florida's largest tracks have experienced declining handles in the past year. Further, some observers believe that heavy bettors are reluctant to risk sizable amounts of money on the track-owned dogs that were brought in during and after the strikes. At least seven State legislatures—including New York and California—are currently considering bills to legalize greyhound racing. Undoubtedly, these States will be monitoring the progress of the various ongoing legislative and judicial squabbles and measuring their effects on the wagering public.

COMPETITION

The rapid expansion of legalized gambling has been spurred by revenue-hungry State legislatures and pressure from the various legal industry lobbies. What everyone fears, however, is that competition among rival gambling factions may one day strangle all but a few of the liveliest combatants, as a gambling-saturated public turns to recreational pursuits that make fewer demands on their pocketbooks and emotions.

In horseracing, many track owners and horsemen fear that the widespread legalization of certain types of gambling—principally casinos, greyhound racing, and sports betting—would signal the eventual destruction of their sport. There is some evidence that their concern may be justified. In Nevada—the only State with both legal casinos and sports betting—horseracing is practically extinct.[35] The number of racing days there decreased from about 58 in 1965 to only 8 in 1974. For the immediate future, it does not appear that many States will legalize casinos, but greyhound racing and sports betting may be another matter. As stated above, bills to legalize greyhound racing have been introduced in a number of States. In addition, the New York Off-Track Betting Corporation is seeking permission to begin accepting sports card wagers—a move that has already aroused opposition from the horseracing industry. Since New York is the major horseracing State, anything that harms racing there is likely to affect the industry as a whole. Greyhound tracks also are feeling the effects of competition. In Miami, for example, dog track operators are worried about competition that would result if the jai alai season were extended.

CONCLUSIONS AND RECOMMENDATIONS

CONFLICTS OF INTEREST. Of the 32 State racing commissions, all but 9 prohibit racing commissioners from holding any pecuniary interest in racetracks within their States. On the other hand, only seven States prohibit racing commissioners from owning horses or dogs that race in the State. Similarly, except for the Pennsylvania State Harness Racing Commission, no racing commission prohibits track owners from betting on horses running on their tracks. Although most racing States do not prohibit racing commissioners from betting on races, all States prohibit racing officials from betting. No State prohibits racehorse owners from betting on their own entries.

In any sport in which gambling is permitted, it is important to avoid the appearance as well as the fact of wrongdoing. Hence, any situations in racing creating the potential for conflicts of interest should be carefully examined. In the course of structuring the necessary safeguards for clean racing, many activities that regularly occur without incidence of impropriety will nonetheless have to be eliminated by the States.

Therefore, the Commission recommends that members and staff of State racing commissions be absolutely prohibited from holding any financial interest in racetracks under their regulatory jurisdiction. This restriction should include financial interests in companies directly doing business with the tracks. These individuals should not be placed in a position where they could make decisions favoring their own interests.

In addition, the Commission recommends that members and staffs of State racing commissions be prohibited from placing parimutuel wagers at tracks within their States, as is now the case in several States. Nor should racing commissioners allow their horses to be raced in the State in which they hold office. The Commission believes that the appearance of a compromise of his independent judgment outweighs the commissioner's personal interest in seeing his horse run in his home State.

Betting by racing personnel on their own entries in a race appears to be a commonplace occurrence in the industry. Present State policies prevent jockeys from wagering against their own horses, and the Commission concurs with this approach. With few exceptions, State racing commissions do not restrict wagering by animal trainers. The Commission feels that no distinction should be drawn between the betting of jockeys and trainers, since both groups have the ability to influence the performance of their racing animal directly.

POLITICAL IMPROPRIETY. There have been recent occasions when the integrity of a State's highest officials has been called into question because of racing-related decisions or actions. Many people within the racing industry believe that such abuses could be prevented by strict regulations prohibiting a racing commissioner from holding any financial interest in any aspect of racing in his own State.

If the idea were not obviously impractical, the Commission would recommend a prohibition on wagering on any animal by anyone involved with racing, in order to avoid the appearance, and perhaps the fact, of inside information providing some bettors with an undue advantage. **But, at the least, the Commission recommends that key racing officials—stewards, judges, and racing secretaries—be absolutely prohibited from betting on any entry.**

The practice of horsemen betting on their own horses is as old as racing itself. Before the advent of organized horseracing, horse owners arranged competitions among themselves and bet on the outcome. The Commission finds no impropriety in betting by horsemen, so long as the owners refrain from betting on horses in competition with their own.

The Commission recognizes that many of these guidelines may well be unenforceable, and that it may become necessary to determine at what level of conduct they may practically be applied, so that the most critical conflicts of interest can still be avoided.

DISCLOSURE OF ECONOMIC INTERESTS. Only a few States, Nevada and Illinois among them, require full disclosure of the hidden economic interests behind a nominal applicant for a license to run a racing meeting or gambling event. Past investigations have uncovered the potential problems that arise when a concessionnaire holds substantial economic interests that might affect track owners' decisions. Recently, the Maryland Racing Commission, in response to a lengthy legislative inquiry, was unable to discover the true economic interests behind a Maryland track.

Like the securities industry, racing is a business that must deal carefully and properly with other people's money. The stock exchanges are federally controlled through the Securities and Exchange Commission, a major weapon of which is its ability to force financial disclosure from public corporations. The Government views this authority as necessary to protect the public interest in the maintenance of a fiduciary relationship between the public and controllers of corporations

A bill (H.R. 1048) that would force disclosure of ownership interests in the racing industry was introduced in the 94th Congress The policy considerations of that bill are compatible with the Commission's viewpoint.

Nevertheless, the Commission feels that the States can accomplish the same purpose without Federal supervision. To this end, the Commission has developed model State regulations—adapted from elements of the proposed Federal bill—mandating thorough and accurate financial disclosure among all elements of the racing industry. Those regulations appear in an appendix to this Report.

Because the Commission believes that hidden ownership in the racing industry is contrary to the public interest, it recommends that the States enact legislation requiring full disclosure of all financial interests in the operation of a racing meeting. If such legislation is not enacted by the States within 2 years, the Commission recommends that Congress enact a Federal disclosure law with these provisions.

LICENSING AND BACKGROUND INFORMATION. In addition to requiring full disclosure of all parties holding financial interests in racing associations, the States also must determine which individuals connected with racing should be required to obtain licenses, and the extent to which those persons should be required to disclose information concerning their backgrounds.

Given the high interest in protecting the integrity of racing, it is essential that racing commissions have accurate information concerning the identity of all employees at the track, including the employees of concessionaires. Anyone who works at a racetrack is close enough to the conduct of the sport to merit close scrutiny, and the racing commissions should possess information concerning any past conduct of those individuals that was contrary to the best interests of racing. Employee data should include date and place of birth, fingerprints, Social Security number, any outstanding civil judgments, any criminal convictions against the employee, and the record of involvement in any administrative proceedings concerning racing. A similar requirement exists in Nevada, where employees at gaming houses are required to obtain a work permit from the sheriff and to disclose information concerning their past conduct. For racing, a licensing system would enable the racing commissions to be able fully to tabulate the necessary information on those individuals who should be denied employment at the track: The standards for banning individuals from the sport could vary depending upon the sensitivity of the position applied for. However, the NASRC should endeavor to promote consistent standards throughout the States. Such information would then be available to all racing associations in a State, as well as to racing associations in other States through the NASRIS computer network.

Accordingly, the Commission recommends that the **States require all employees at the track, regardless of job classification, to obtain licenses and reveal background information pertinent to their close connection to racing.** The cost of obtaining such a license should be nominal, and the small burden placed upon track employees should be considered as part of their obligation to preserve the integrity of racing. The same rule should apply to all others directly involved with the sport.

State licensing practices are presently time-consuming, costly, and repetitive to members of the racing industry. Because modern racing demands much interstate travel by participants, the owners, trainers, jockeys, and others are often confronted by duplicative licensing requirements. **To alleviate this problem, the Commission recommends that the States adopt reciprocal licensing practices that would allow racing participants in good standing in one State to be allowed to race in other States.**

TRACK SECURITY. Currently, track security at racetracks throughout the country is primarily the responsibility of the individual tracks or private trade organizations connected with racing. Evidence from the Commission's parimutuel hearings indicates that States provide very little support or control for security at racing meets.

Although some States do provide State and local police support, most tracks must rely upon other means to police their meets adequately. The Thoroughbred Racing Protective Bureau, as a subsidiary of the Thoroughbred Racing Association, furnishes investigators for TRA member tracks: The other approximately 55 thoroughbred associations, representing about 20 percent of the thoroughbred handle, must rely upon authorized police agencies to make arrests. In similar fashion, Harness Track Security provides security for 33 of the 47 tracks belonging to Harness Tracks of America. The 27 other American horse tracks hire their own guards or rely on private security companies for service.

The States derive tax revenue from racing but, with the lone exception of Illinois, provide no police support for overall security and little for crowd and traffic control. Illinois charges the tracks for its police services. Because private security agencies, while doing exemplary work, are ultimately funded by the tracks, some question of their impartiality inevitably arises. While it is true that most law enforcement agencies do not presently possess the expertise necessary to provide professional levels of track security, this capability should be developed with experience.

In light of the substantial revenues the States derive from racing, the Commission recommends that, at no additional cost to the tracks, the States should develop an expertise in track security to protect, in conjunction with the TRPB and HTS, the interests of the public and other affected persons from violations of State security laws. This should be done by racing commissioners' establishing their own security divisions. If the States do not respond to this recommendation within 2 years, the Commission recommends that Congress enact Federal legislation—modeled after H.R. 1047, introduced in the 94th Congress—to effect this purpose.

Clean racing requires an atmosphere in which the tracks are free from criminal activity, and even from the appearance of criminality. Tampering with the conduct of a horserace is among the activities that should be controlled by diligent law enforcement.

On their face, the State statutes appear to be capable of preventing this type of conduct. The question is whether the agencies responsible for enforcing these laws are performing effectively, or whether there is a need for a Federal presence to prevent race tampering. As noted, States should increase their efforts to curtail such activities. **However, should a greater commitment by the States to racetrack security not be forthcoming within 2 years, the Commission recommends that Federal law enforcement agencies be given jurisdiction to act against those who tamper with race conduct.**

Potential security problems are raised by common ownership or control of racing animals, although that danger has not become a serious problem in the horseracing field. Some dog owners charge, however, that dogtracks have begun to enlarge their operations to include the ownership of racing animals. To combat possible abuses, the greyhound racing industry has instituted safeguards such as self-grading, lockout kennels, special identification techniques, and the drawing of lots to fill race cards.

Many dog owners believe that ownership of several kennels by a single track owner is an increasing problem in their industry. The Commission is not in a position to judge this claim. It does find, however, no economic abuse inherent in the ownership of a kennel by a track under the present system of checks and balances described above. Instead, the Commission objects to the common ownership or control of kennels by one legal interest—dog owner or track owner—that is camouflaged through legal devices. Such a situation invites abuse in the treatment of racing animals by allowing one owner to treat his animals in such a way as to favor one over the others—for example, through overexercising or overfeeding. The safeguards adopted by the industry could be largely circumvented if the animals of one owner are made separate entries through the use of legal camouflage. **The Commission believes that hidden multiple ownership of kennels presents the potential for improperly affecting the outcome of greyhound racing by allowing one person to control several racing entries, and strongly recommends that States, through extensive disclosure provisions, institute and enforce prohibitions against the practice.**

EXOTIC WAGERING. The Commission has heard many witnesses testify on the subject of exotic wagering and most of them were in agreement: It is a bad practice, but one that is necessary for the economic survival of the industry. With this type of betting, payoffs to successful bettors can be extremely lucrative

Veteran handicappers, who take pride in their knowledge of horses and racing, generally disdain exotic wagering because expertise becomes less and less valuable as the odds rise. The casual racing fan is more likely to be enticed by the high payoffs. But that appeal is not always limited to honest horseplayers—criminal elements sometimes find that the long odds justify the risks they run in fixing races. Most of the recent scandals in racing have centered around exotic wagering. This may be, however, because of the recent proliferation of exotic wagering in tracks around the country, rather than because of an inherent corruption factor in such wagering.

The majority of racing industry witnesses who testified before the Commission characterized exotic wagering as a necessary evil. Despite this attitude, held by most professional horsemen, the incidence of this type of wagering has been steadily increasing. It is widely believed that track attendance would suffer if exotic wagering were abolished. No surveys, however, have yet definitely described the market for exotic wagering.

A nationwide ban on exotic wagering might reduce the incidence of race-fixing by substantially lowering its benefits to the fixers, but with the average daily track attendance already in decline, any major inroad into the popularity of racing could endanger the industry. Furthermore, the Commission has received no evidence to suggest that race-fixing would not continue even without the presence of occasionally astronomic odds. **For these reasons, the Commission recommends that no immediate steps be taken by the States to abolish exotic wagering. Consistent with its stated national policy, the Commission recommends that State racing commissions review exotic wagering policies and determine which types of wagering are most advantageous to the State and the public.**

If, after their review, the State racing commissions find a clear need for decisive policies to deal with the problems of exotic wagering, and if the States prove unable or unwilling to enact laws and regulations to meet that need, then Federal control may well be warranted in this area. In view of the fact that tracks without exotic wagering may be at a severe disadvantage to tracks that allow it, any Federal legislation in this area should be designed to insure uniformity among the States.

TYPES OF RACING. At present, all State racing commissions except New Hampshire's have combined jurisdiction over horseracing and dogracing in States where both are permitted.

The similarities between the two kinds of racing, and the identical public interest served by the regulation of each of these activities, suggest that a single set of rules and regulations, based on a common statute, can adequately provide for the control of both, and that a single State racing commission is capable of exercising jurisdiction over all forms of animal racing. Indeed, the development of coherent State racing policies is enhanced by placing authority to regulate all types of racing in the hands of one agency.

That said, it is necessary to identify any major differences between horseracing and dogracing, and to determine whether a single commission should adopt different policies toward each type of racing. At the present time, dogracing practices differ from those of horseracing in two major aspects:

- Greyhound tracks employ a closed booking method in order to fill racing cards. Unlike the open entry method used in the horseracing field, this entails supply contracts between breeders and tracks. As a result, dog track owners hold much greater leverage over dogbreeders than do their counterparts in the horseracing field.
- The ownership of dog tracks is more monopolistic than that of horse tracks. In two States, Arizona and Florida, this situation is even more severe. As a result, the tracks' leverage over the dog industry in these States is great.

Because of these differences, the Commission recommends that State racing commissions be allowed to deny a license to conduct a racing meeting to an applicant who has already received a license to conduct a race meeting of the same breed in the same racing season. This recommendation is discretionary rather than mandatory, so that commissions have the latitude to distinguish between monopolistic situations that do not threaten an economic imbalance in the racing industry affected, and those that do.

The Commission also recommends that no form of racing be statutorily precluded. However, a racing commission may decide, based on the public interest in its State, to place restrictions on certain breeds of racing animals. State racing commissions should be in the best position to make these determinations. But the Commission again observes that in order to best serve the public interest, the State racing commission must employ rigorous economic analyses in making such decisions.

The Commission also recommends that a State gaming board oversee all animal racing permitted in a State. If a State finds such a board impractical in light of existing circumstances, the Commission believes that a single racing commission oversee all animal races. (An appendix to this Report contains a model State gaming statute.) **That agency should regulate the breeds as uniformly as possible, but distinguish among them to reflect significantly disparate industry practices.**

ECONOMIC POLICIES. Many, if not most, of the decisions a State racing commission is called upon to make are economic. The commission sets policy in the awarding of racing dates, the location of tracks, the number of races held, types of races held, and payment of purses and other awards. The commission also enforces the takeout rate decided by the State legislature. Yet, despite its primary economic function, the State racing commission appears to ignore the economics of the industry it regulates.

Little economic research has been done on the entire area of racing. Not much is known, for example, of the precise effect of the rate of increase in racing dates on the quality of horses and the size of the field. The size and quality of the field probably influence the handle, but no research has been done to demonstrate the relationship. The effect of mixed racing on the handle has not been investigated. Nor have the States extensively analyzed the profits from individual parimutuel industries in setting takeout rates. Increasing takeout has been cited by track owners as a cause in the decline in daily attendance, but a complete study of this area has not been made. Perhaps most significantly, the market for parimutuel wagering on races has yet to be defined.

Nevertheless, the consensus heard by the Commission—through hearings, research, discussions with industry groups, and letters from the public—is that current on-track parimutuel wagering State takeout rates are set too high. According to some authorities, optimal on-track rates are best determined by the costs of running races. The best on-track takeout rate will therefore necessarily vary from State to State, but **the Commission believes that the present on-track State takeout structure of 15 to 17 percent should be lowered to a range of 13 to 15 percent of the handle in order to maximize revenues for the States and the racing industry, as well as to aid bettors.**

The Commission believes that the allocation of racing dates is an area ripe for reform. Most States created exclusive territorial franchises a generation ago. At the time, these restrictions prevented destructive competition between the tracks and promoted State revenues. Today, under different market conditions, the requirements that tracks be located a certain distance from each other has become an inefficient criterion for allocating racing dates. Population density, geography, and local custom provide better market guides.

The Commission recommends that State racing commissions and the racing industry jointly fund market research programs to develop the information necessary to establish criteria for the setting of policies in such matters as takeout rates, the allocation of racing dates, and the location of tracks. Such information would enable the commissions and the State legislatures to choose the best means to promote revenues to the State and profits to the industry by fulfilling the desires of the racing public.

The Commission recognizes, in the alternative, that if the States demonstrate an inability to resolve these economic issues successfully, congressional action may well be merited because of racing's inherent interstate aspects as well as the potential national interest in the financial health of the industry. Congress may limit takeouts, for example, on either a regional or national level, through the imposition of Federal ceilings with credit given for contributions to State governments consistent with existing formulas. **In the event that State measures prove inadequate, the Commission recommends passage of such Federal legislation.**

COMMISSIONER ORIENTATION. The well-being of the racing industry is dependent upon many factors, but none is more important than the enlightened guidance of knowledgeable administrators. Most statutes provide State Governors with few guidelines for appointing racing commissioners, although a few are like Illinois', which requires that "[e]ach [commissioner] shall have a reasonable knowledge of harness or thoroughbred racing practices and procedure and of the principles of harness or thoroughbred racing and breeding. . . ." **The Commission recognizes that State Governors, even in States without official guidelines, make appointments to State racing commissions in accordance with the best interests of the State and take into consideration their appointees' expertise in different fields; it therefore recommends no changes in the methods of appointing commissioners.**

Because of diversity of backgrounds of the appointees, the Commission believes that a minimum standard of orientation as to their responsibilities should be made available to new racing commissioners. Training courses could provide an overview of the industry's economics, its administrative structure, and its security needs. On-the-job training would be kept to a minimum, with resulting benefits to the public, the industry, and the racing commissioner.

The Commission recommends that the National Association of State Racing Commissioners initiate such a program, in conjunction with existing training programs that provide specific expertise in racing, such as the school for stewards run by the Jockey Club.

ANIMAL MEDICATION. Medication standards in racing are a continuing source of controversy. Initially, there were no controls over many drugs and other medicines. With the advent of more exact testing methods and a higher concern for the integrity of racing, progressively more restrictive standards were imposed, until some jurisdictions pronounced an absolute ban on medications of any kind, including such a widely used analgesic as phenylbutazone. The effect of prohibitory medical regulations peaked with the disqualification of Dancer's Image as the winner of the 1968 Kentucky Derby upon the discovery of phenylbutazone in the horse's postrace urine sample. Since that time, some States, Kentucky among them, have eased their bans on medications and prohibited only stimulants, depressants, narcotics, and local anesthetics. Medicinal compounds, such as analgesics and some ointments which do not impair or exaggerate the performance of a racing animal, are more often permitted today.

Controlled medication standards allow a racing animal to run more days during the year. With the recent trend toward increasing racing dates, horse owners find their animals in greater demand to fill out the proportionately greater number of cards. But even with controlled medication, the number of short fields in horseracing is increasing. Economic pressures have driven horse owners to push for permissive medication rules. Proponents of controlled medication also argue that horses are not being pushed beyond their natural abilities by the permitted medicines, and that bettors rely on a horse to run true to form.

Disclosure to the public of medication to an entered racing animal in those States that permit medication is also a subject of debate. Disclosure is favored as a consumer protection measure that aids the bettor in choosing an entry. Disclosure is opposed as a misleading indicator of the animal's ability to run, since many other factors, not similarly made public, also have an effect on its speed in a race. Further, disclosure may pressure a trainer to medicate a racing animal unnecessarily, either in the belief that it will affect its performance (the betting public believes, often erroneously, the medication will improve an animal's performance or to prevent a healthy animal from being claimed after a claiming race

Controlled medication is itself criticized The effects of many permitted drugs upon racing animals are not fully known. As noted elsewhere in this Report, fundamental research in many areas of racing has yet to be done.

The Commission recognizes the helpful research done by the American Association of Equine Practitioners and the Association of Official Racing Chemists and believes that the standards they have formulated for the racing industry should and will be adopted. There is, however, a great need for research into the physical effects of drugs upon racing animals; the States, acting separately, may never be able to generate the resources necessary for the AAEP and the AORC to examine these problems fully. The Commission feels that the racing industry would benefit from the cooperation of the Food and Drug Administration in developing standards governing approval of the medication for use in racing animals. The FDA is the agency of the Federal Government responsible for the safe dispersal of medications to the public. If it were to set forth the proper testing procedures before a drug could be allowed to be used in racing animals, it would greatly aid the determination of the effects of medications on the animals. Such a modest commitment by the Federal Government would promote uniformity of State medication policies without interfering with the ability of the States to make a final determination on this matter.

The Commission recommends that the racing industry, in cooperation with such groups as the American Association of Equine Practitioners and the Association of Official Racing Chemists develop uniform drug detection and analytical standards governing the medication of racing animals.

JAI ALAI. Parimutuel wagering is not confined to animal racing. Jai alai is played legally in Florida, Nevada, and Connecticut. Rhode Island has legalized parimutuel wagering on matches, although it does not yet have an operating fronton.

The State of Florida, which has been regulating the sport for more than 40 years, has found no instances of dishonest practices. This finding should not be interpreted to mean that opportunities for corruption do not exist. The Commission believes that many of the same dangers of corruption found in racing are present in jai alai. These include the potential bribing of participants in order to affect the outcome of the games, drugging of the players, and the arranging of matches that do not truly equalize the skills and abilities of the players. Because fronton owners handle the public's money, the State licensing them must not allow criminal elements to gain positions of ownership or to influence fronton owners through economic leverage. Thorough and sophisticated financial disclosure laws reduce the likelihood of criminal elements gaining control of fronton operations.

Regulators in Florida and Nevada stress the strict security employed by their States and the integrity of the participants as reasons for jai alai's honest image. The Commission believes that both States are regulating the game adequately. Problems may arise, however, if there is a rapid expansion of the game among the States.

The major problem—the unfamiliarity of the public and State regulators with the rules of jai alai and with the players performing in the frontons—could heighten the potential for dishonest practices within the sport. Jai alai players have had a long tradition of honesty in the conduct of their sport. The current pool of players, however, is rapidly being exhausted by the recent expansion in the number of frontons, and whether this tradition will remain is unknown. However, the present system of prize money awards based on individual performances may help insure jai alai's continued reputation as a game honestly played.

The Commission recommends that any State that introduces jai alai as a forum for legalizing gambling should exercise a high degree of caution regarding both the quality of the players and the regulatory procedures used in overseeing the sport. Florida provides a good regulatory and policing model for States interested in jai alai.

OFF-TRACK BETTING

The history of off-track betting in the United States is almost as long as that of horseracing itself. The invention of the telegraph made large-scale illegal bookmaking away from the track both possible and profitable. Although off-track wagering was not legalized until well into the 20th century, horserace bookmakers flourished in almost all of the Nation's cities. Some of their best customers were policemen and politicians.

But legal off-track betting is a relatively new phenomenon. When New York State legalized the country's first off-track parimutuel wagering system in 1970, it legitimized a well-established but generally disreputable profession. After only 5 years of operation, OTB in New York State is expected to generate a handle of about $1 billion in 1976, which translates into more than $150 million for governments and racing. OTB in New York has created about 4,200 new jobs—2,700 of them in New York City alone—and contributes more than $75 million annually to the State and local governments. Apart from its considerable impact on the economy, OTB has affected the betting habits of people who have access to it. In attempting to entice customers away from the illegal books, it also inevitably attracts some people who had no previous experience with either racing or commercial wagering.

Finally, the introduction of OTB has generated a great deal of controversy. OTB has many opponents both within and outside racing—those who question the fairness of the current system's distribution of revenue, its ability to compete with illegal wagering operations, its effect on the racing industry, and, perhaps most importantly, the propriety of government as the operator of a gambling enterprise. While the racing industry is not unanimous in its reaction to the concept of intrastate off-track betting, it is unified in its opposition to all forms of interstate OTB. On the other side of the issue are those who view OTB—both intrastate and interstate—as a positive economic force capable of benefiting the racing industry, the wagering public, and the governments that operate or regulate it.

This section examines New York State's off-track betting system, concentrating on New York City's, the oldest and largest component of the system. The section also examines the controversy surrounding OTB. Off-track betting has been characterized both as a boon to racing and as its death knell. Without taking sides in the controversy, the Commission has attempted to devise a model intrastate OTB system that equitably serves the interests of all participants.

HISTORY AND DEVELOPMENT

The establishment of the New York City Off-Track Betting Corporation in 1970 was the culmination of a 20-year effort to legalize off-track betting in New York State. In 1951, a legislative committee recommended against the establishment of any OTB system. Another committee was appointed in 1958 to study the feasibility of off-track betting in New York City. That committee recommended the establishment of a government-operated off-track betting system. Bills to create such a system were introduced in the State legislature every year thereafter but were never reported out of committee.

During the mid-1960's, accelerating revenue problems in New York City prompted additional research into the feasibility of off-track betting. In a nonbinding referendum held in New York City in 1965, voters overwhelmingly approved the concept of OTB. Nevertheless, efforts toward legalization continued to fail. By 1970, the severity of New York City's fiscal crisis made it apparent that extraordinary revenue-raising measures were needed. That year, over the strong objections of the racing industry, the legislature enacted two off-track wagering statutes.

The first statute created the New York State Off-Track Parimutuel Betting Commission, a State agency whose function was to set policy and regulate the local option plans of participating municipalities. The law stipulated that city or county governments authorizing OTB had to provide the opportunity for a voter referendum to take place. The second statute established the New York City Off-Track Betting Corporation.

The first OTB offices opened in New York City in April 1971. Delayed branch openings, computer difficulties, objections by on-track unions, and inharmonious relations between OTB and the racing industry caused initial earnings to be far lower than had been predicted. By 1973, the OTB handle had increased significantly.

Expansion of OTB

The Schenectady Off-Track Betting Commission was organized as a municipal agency in 1971 and began taking bets in July 1972. Following 1973 amendments to the OTB legislation, the Schenectady OTB Commission made plans to reorganize as part of the Capital Regional Off-Track Betting Corporation, a public benefit corporation that began operation in 1975. Capital Regional OTB serves 14 counties in northeastern New York, 7 of which have joined OTB. In May 1974, the Western Regional Off-Track Betting Corporation began operations. The Western Region covers 16 counties, 11 of which have joined OTB; it includes two major cities, Buffalo and Rochester. In January 1975, CHART 5-3.—FOREIGN OFF-TRACK BETTING OPERATIONS

Country	When authorized or started	Objectives	Structure	Operation
Australia	1958—Royal Commission authorized off-track betting. 1961—Victoria, first of six states to begin operation.	Combat illegal bookmaking operations and raise revenue for government.	Under supervision of nonprofit Totalisator Agency Boards (TAB). TAB's made up of racing officials.	TAB operates branch offices and issues franchises. Franchise agents receive salary plus commission. Thirteen percent takeout on and off track. Bets taken on greyhound and horseraces
Great Britain	Credit-only OTB betting always legal. Cash OTB legalized in 1960	Eliminate illegal cash bookmaking.	Bookmakers are private enterprise. Government operates a toteboard agency that competes with private bookmakers.	Licensed bookmakers run their own offices and pay taxes to government. Toteboard agency does the same. Eighteen percent takeout on and off track. Bets taken on sporting events, elections, many others. Bookies handle 85 percent of off-track business.
France	Authorized 1930 as private enterprise. After WW II Pari Mutuel Urbain (PMU) took over. Offices are franchised.	Discourage illegal bookmaking, raise revenue for horseracing and for government.	[illegible] controlled and managed by five Parisian racing societies under loose government supervision.	Most OTB's operated by franchised agents. Agents receive commission for accepting bets. PMU also operates a few betting shops. Twenty-seven percent takeout on and off track, but higher takeout on OTB exotic wagers. Horse bets only
Japan	Authorized and began operations in 1948.	Revitalize horseracing industry.	Japan Racing Association controls and manages on- and off-track wagering. Some government supervision.	Japan Racing Association operates on- and off-track wagering. Twenty-five percent takeout on and off track. Bets taken on horseracing, bicycle, motorcycle and boat racing.
New Zealand	Referendum approved 1949; started 1951.	Eliminate illegal bookmaking.	Totalisator Agency Board (TAB) made up of racing officials under some government supervision	TAB operates some offices. Most are franchised; agents receive salary plus commission. Eighteen percent takeout on and off track. Bets taken on horseracing, greyhound racing.
Puerto Rico	Legalized in 1913. Present form started in 1948.	Raise revenue for government and racing industry.	San Juan Racing Association is private corporation under some government control.	Franchised agents receive about 10 percent commission from San Juan Racing Association. Takeout varies by type of bet, not by location. Bets on horseracing, lotteries, and casino gambling.

Source New York City Off-Track Betting Corporation, Testimony by Paul R Screvane before National Gambling Commission, May 6, 1975.

Nassau County opened its first branch office. The Suffolk Regional Off-Track Betting Corporation opened its first offices in April 1975. A sixth OTB operation began in the Catskills region of New York in April 1976.

In May 1976, Connecticut became the second State to legalize off-track parimutuel wagering. Until a racetrack opens in the State, Connecticut will use New York State horseraces exclusively.

OTHER OTB OPERATIONS

Foreign OTB

Other major off-track betting countries are Australia, England, Ireland, France, Japan, and New Zealand. Puerto Rico, a United States territory, also has off-track betting. Although there are some similarities between the various operations, each country has adopted its own approach to OTB. Chart 5-3 summarizes the structure and operation of the foreign OTB systems.

OTB and Sports Betting in Nevada

In 1949, Nevada began licensing bookmakers to accept wagers on horseraces run anywhere in the country and on most sports events, the exceptions being amateur sports contests taking place within Nevada and events occurring outside the State in which a Nevada team is a participant. Bookmakers are permitted to accept telephone wagers only from residents or visitors within the State. They also are permitted to lay off bets to other licensed bookmakers in Nevada.

Bookmakers are required to pay a 2-percent Federal excise tax on gross wagers and to purchase a $500 occupational stamp for each employee. Prior to December 1, 1974, the Federal excise tax had been 10 percent and the occupational stamp $50. Bookmakers who desired to pay the 10 percent tax found they were unable to compete with their illegal counterparts. As a result, some bookmakers underreported their gross wagers while others simply found it more profitable to continue operating illegally and without a license. Reduction of the excise tax improved the situation somewhat. Smaller volume bookmakers, however, still have difficulty paying the tax, and underreporting of gross wagers still occurs. Bookmakers also are subject to State and county license fees.

Table 5-34 shows the total wagers and gross wins (before expenses) of licensed bookmakers for 1974 and 1975. With the reduction of the Federal excise tax, the volume of horserace betting doubled in 1975 over 1974 and sports book volume increased fivefold. The number of licensees also increased—30 percent for race books and 100 percent for sports books.

Many of the licensed bookmaking operations in Nevada are only marginally profitable. For example, out of gross wagers of almost $13 million during its first 9 months of operation, Las Vegas' Union Plaza Hotel's race and sports books showed profits of $35,902, or about 0.3 percent.

TABLE 5-34.—NEVADA SPORTS AND RACE BOOKS, 1974-1975

	Race books			Sports books		
Year	# of locations	Total wagers	Gross win	# of locations	Total wagers	Gross win
1974						
3/31/74		$ 4,489,442	$ 855,046		$ 1,258,006	$ 49,396
6/30/74		5,567,801	1,019,370		1,151,206	105,454
9/30/74		5,109,796	823,788		1,749,635	236,571
12/31/74		4,582,117	761,825		3,973,217	408,442
Total	11	$19,749,156	$3,460,029	8	$ 8,032,064	$ 799,863
1975						
3/31/75		$ 8,155,935	$1,221,467		$ 4,051,808	$ 43,846
6/30/75		10,182,260	1,457,536		3,415,051	271,500
9/30/75		10,336,609	1,485,712		7,406,861	588,716
12/31/75		12,035,014	1,677,021		26,170,323	2,105,936
Total	15	$40,709,817	$5,841,736	16	$41,044,048	$3,009,998
Percent Change 1974-1975	+36	+106	+69	+100	+411	+276

STRUCTURE OF OTB IN NEW YORK

In 1973, amendments to the OTB legislation dissolved New York's Off-Track Parimutuel Betting Commission and established in its place the State Racing and Wagering Board, an umbrella agency responsible for overseeing all parimutuel operations in the State. The 1973 amendments also established the mechanism for the creation of seven regional off-track betting corporations in addition to the New York City operation. Under this act, a minimum of three counties within each region (except for Nassau and Suffolk Counties, each of which constitutes a separate region), representing at least 30 percent of the population of the region, had to agree to the formation of a public benefit corporation before the end of 1975 or lose their right to enter into the OTB business. Once plans have been drawn up for the formation of a regional OTB corporation, individual cities or counties with populations of more than 150,000 are eligible to participate. After a city or county authorizes participation, an individual is selected to represent the jurisdiction on the corporation's board of directors. New York City has five directors, appointed by the mayor, two of whom serve at his pleasure and three of whom serve 6-year terms.

These public benefit corporations include features both of governmental agencies and private businesses. A corporation's purchasing and personnel policies follow governmental practice. New York City OTB employees, for example, are part of the civil service system. Broad policy decisions are made in liaison with city or county governments.

Each OTB corporation is required to complete a monthly accounting of its expenses to the State Racing and Wagering Board. In addition, the New York State Department of Audit and Control is required to review the accounts of the corporations annually. All of the OTB corporations have their accounts audited by independent CPA firms as a supplement to these procedures. OTB corporations are entitled to sell bonds to raise money, but if they default in their payments to bondholders, the participating municipalities are not responsible for assuming the corporation's debts. OTB corporations pay no direct State real estate tax, and no State or Federal income tax.

OTB corporations have adopted many of the management, marketing, and operational procedures employed by private enterprise. Like private businesses, the OTB corporations are production- and sales-oriented. They measure their progress by the amount of money bet and the number of new telephone accounts opened. Like private business, OTB advertises its product in the media. But while the everyday operations of an OTB corporation closely resemble those of many private companies, there are significant differences between the two with respect to basic policy decisions. As a governmental entity, OTB is ultimately responsible to the public, but what is best from the point of view of public policy is not always best for business. A private business, for example, would be inclined to close unprofitable sales outlets, whereas OTB generally maintains its marginal branch offices as a service to the people who use them, as a potential local competitor of bookmakers, and as a means of providing employment for local residents. Advertising is another area in which the interests of business must be weighed against the public interest. A media saturation campaign of the type employed by many large corporations might boost the OTB handle significantly, but if viewed as a strong inducement to gamble, it might be considered contrary to the public's best interest.

MECHANICS OF OTB

The business of off-track betting is conducted at branch offices, or betting shops. These facilities are austere in appearance and contain no seating in the public area in order to discourage loitering. The sale and consumption of food and beverages are prohibited.

In compliance with OTB interpretations of Federal law regarding the interstate transmission of wagers, separate parimutuel pools are maintained for out-of-State races.[36] In the case of in-State races, however, OTB wagers from all over New York State are transmitted to the track and combined into a single parimutuel pool to produce a uniform on- and off-track payout price for each race.[37] Separate pools are maintained, with approval of the track and the State Racing and Wagering Board, when OTB offers exotic wagers[38] not available to track bettors.[39]

OTB patrons cannot make last-minute wagering decisions because changing odds are not posted. Bets at an OTB branch office currently can be placed up to about 25 minutes before a race.[40] Thus, unlike the track bettor, the OTB patron cannot presently parlay his winnings on a race-to-race basis, which reduces the "churn" or rebetting of winnings, an important component of the handle of any parimutuel wagering operation. Another difference between OTB and the tracks is that the latter have separate windows for different transactions, while OTB's computers enable each cashier to perform all of the different selling and cashing transactions that make up the wagering system.

A customer who wishes to place a wager with OTB obtains a printed entry sheet listing the horses running by track and race number. After checking the track boards for the latest scratches and jockey changes, which are phoned in by OTB employees at the track, the customer makes his selection by filling out the betting slip and passing it along with the required amount of money to a cashier at one of the betting windows. The cashier then enters the bet into a terminal connected with a computer in the main office, and within seconds the computer causes the terminal's ticket-issuing machine to print a ticket.

OTB employees at the tracks communicate race results to the main office, where the results and payoff prices are entered into a computer and relayed to branch offices. A recent innovation by Capital Regional and New York City OTB is the broadcasting from OTB headquarters to branch offices of race results and other betting information.

After race results have been posted, winning ticket-holders present their tickets to the cashier, who enters the ticket's serial number into the computer terminal. After verifying the serial number, the computer indicates the amount of the payoff on the terminal's screen in front of the cashier. The computerized serial number system was introduced by New York City OTB and has subsequently been adopted by other countries. The system virtually prevents the counterfeiting of tickets. With the aid of this and various other computer-based security systems, OTB corporations have been able to minimize losses attributable to theft and error.

OTB customers also may phone in their bets. Under this system, a customer opens up a deposit account with OTB. He then may place wagers by telephone so long as his account contains enough money to cover his bets. In New York City, the average telephone account contains $114. OTB does not extend credit to any customers, and in this respect it is not competitive with illegal bookmakers. Each OTB telephone bet is tape-recorded for the mutual protection of the account holder and OTB. As of July 1, 1976, New York City OTB had 42,951 telephone accounts, of which approximately 2,200 were active on a daily basis. The number of telephone accounts has declined as a result of the surcharge on OTB winnings (discussed below). Although OTB is prohibited by law from accepting telephone wagers from out-of-State callers, in most cases it is impossible to determine the origin of calls.

In addition to serial-numbered tickets and telephone accounts, OTB has experimented with other new ideas in parimutuel wagering. It has introduced new types of bets not available at the track, such as the "Pick 4" and the "Double Exacta." In addition, it has created a sweepstakes on the Triple Crown; 10 winners selected in drawings each receive the equivalent of a $50 win ticket. But the most significant innovation of OTB has been its comprehensive advertising campaign.

Advertising is an important facet of OTB operations. New York City OTB now spends more than $1 million a year to [illegible] (see table 5-35). The stated purpose of OTB advertising is to educate the public about how OTB operates and to lure customers away from illegal bookmakers. OTB officials believe that many people are reluctant to use OTB instead of their own bookmakers because they do not understand how OTB works. Another aim of OTB advertising is to remove the "moral taint" from this type of wagering. (Advertisements employing this theme feature prominent persons wearing OTB T-shirts.) OTB ads appear on television and radio, in newspapers and magazines, and on subways and buses. New York City OTB has also tried to increase the public's awareness of and interest in racing by sponsoring television coverage of both local and out-of-State races that can be viewed on one of the local TV stations, and by helping to create new televised racing events, such as the annual OTB-Monticello Classic. Current State regulations prohibit the viewing of live televised races at OTB shops, but in the future this policy may be changed.

OTB advertising has been the subject of criticism by those who believe that certain facets of the advertising program constitute an inducement or exhortation to gamble. They cite, in particular, the ads in which prominent persons appear. This type of advertising, they claim, is inappropriate for a government agency.

TABLE 5-35.—ADVERTISING BUDGETS OF OTB CORPORATIONS, 1975

Corporation	Handle	Advertising	Advertising as % of handle
New York City	$773,530,558	$1,455,000	0.19
Nassau	28,000,000	74,961	0.26
Suffolk	36,000,000	21,308	0.06
Schenectady (to 8/10/75)	40,000,00	35,676	0.09
Capital (from 8/11/75)	(total for year)	(total for year)	(average for year)
Western	57,058,554	271,382	0.47
Catskill	(began operation in 1976)		

OTB REVENUE

The New York OTB statute provides that 83 percent of the OTB handle (less breakage) be returned to winning bettors on straight bets (win, place, and show, and all two-horse selections) and that 75 percent be returned on exotic wagers.[41] The same percentages apply to on-track races in New York. But the distribution of the takeout (the amount not returned to bettors) is radically different. The on-track takeout is divided among only three entities—the State, tracks, and horsemen—while a fourth partner, local government, receives a share of the off-track takeout. Table 5-36 shows the distribution of on-track and off-track takeout.

The takeout is divided among the tracks (which by statute must pay half their share to horsemen in the form of purses) and the government(s) conducting OTB. Expenses are deducted from the government's share of the takeout. New York State collects revenue from OTB through a tax on the gross handle. In New York City, about

TABLE 5-36.—DISTRIBUTION OF ON-TRACK AND OFF-TRACK TAKEOUT IN 1975, NEW YORK STATE

	Percent of handle			
	On-track		Off-track***	
	Straight	Exotic	Straight	Exotic
New York Racing Association (NYRA) Tracks (Aqueduct, Belmont, and Saratoga)				
Total takeout	17	25	17	25
To government(s)	9	15	13.5*	18.5*
To tracks and horsemen	8	10	3.5	6.5
Harness and Other New York State Thoroughbred Tracks				
Total takeout	17	25	17	25
To government(s)	(sliding scale that increases State's [illegible] increases)		13.5*	18.5*
To tracks and horsemen			3.5**	6.5**

*OTB expenses are deducted from governments' share of takeout.

**These are averages. Actual figures are: (1) Straight bets—4 percent to small upstate tracks, 3.5 percent to thoroughbred tracks, and 2.8 percent to metropolitan New York harness tracks; and (2) Exotic bets—7 percent to upstate tracks, 6.5 percent to thoroughbred tracks, and 6.5 percent to metropolitan New York harness tracks.

***Figures exclude surcharge on OTB winnings, the effect of which is to increase the OTB takeout on straight bets from 17 percent to 21.5 percent and on exotic bets from 25 percent to 28.75 percent.

NOTE: New York State has recently enacted legislation designed to offset some of the plant improvement and construction costs undertaken by New York Racing Association tracks. Retroactive to January 1, 1976, the State receives only 5 percent of the on-track handle on NYRA races with the remaining 12 percent going to tracks and horsemen; on exotic races the State receives 7.5 percent, and the tracks and horsemen receive 17.5 percent. The legislation also contains "recapture" provisions designed to put a ceiling on NYRA profits and [illegible] for more frequent audits by the State Comptroller of NYRA's finances.

7.6 percent of the handle is devoted to expenses; 11.9 percent is distributed to State and local governments; and 4.1 percent is paid to the tracks and horsemen (see table 5-37).

Table 5-38 shows the distribution of New York City OTB revenue to tracks, to special breeding funds, and to city and State governments. From 1972 (the first full year of OTB) to 1975, the OTB handle increased about 71 percent, reflecting the addition of many new branch offices. However, in the fiscal year ending June 30, 1975, the New York City OTB handle was lower than it was the previous year, an occurrence that many observers attributed to the imposition in July 1974 of a 5 percent surcharge on OTB winnings.[42] The effect of the surcharge has been to increase the OTB takeout on winning straight bets from 17 percent to 21.15 percent, and on exotic wagers from 25 percent to 28.75 percent. Surcharge revenue is divided between the municipality conducting OTB and the local governments having jurisdiction over the tracks involved.

TABLE 5-37.—DISTRIBUTION OF OTB TAKEOUT, 1975

	Percent of handle			
Corporation	Expenses	State & local governments	Tracks/ horsemen	Total
New York City	7.6	11.9	4.1	23.6
Nassau	6.0	11.0	5.0	22.0
Suffolk	6.9	13.1	3.9	23.9
Schenectady (to 8/10/75)	8.9	10.0	4.0	22.9
Capital (from 8/11/75)	10.6	8.5	4.1	23.2
Western	11.5	7.6	4.2	23.3
Catskill	(began operation 1976)			

NOTE: The above percentages include surcharge revenue.

Testimony before the National Gambling Commission revealed that some bettors strongly oppose the surcharge and have ceased to bet with OTB as a result:[43] New York City OTB lost about 35 percent of its total telephone account handle and 79 percent of its handle on telephone accounts with monthly activity of $1,000 or more. There is evidence that many of the high volume bettors have gone back to their illegal bookmakers, who offer more favorable odds. Proponents of the surcharge had predicted that people who stopped betting with OTB as a result of the surcharge would begin betting at the track instead. But there is no indication that this has occurred; the decreased OTB handle has not been accompanied by corresponding increases in track handles. About two-thirds of OTB bettors in 1974 were aware of the surcharge; they said they would use OTB more often if the surcharge were repealed.

Balancing these negative effects are assertions that the surcharge on OTB winnings is an effective method for raising additional revenue for governments. Studies have shown that OTB patrons are less sensitive than track patrons to changes in the takeout rate.[44] Thus, the imposition of a reasonable surcharge on an OTB operation could well result in additional revenue for both racing and government, depending on how it is distributed. The fact that the New York surcharge appears to have substantially reduced the OTB handle may indicate that the tax is too high, not that the surcharge itself is a counterproductive means of raising revenue. If OTB is veiwed primarily as a tool for increasing government revenue, then the surcharge must be judged a success; if OTB is viewed primarily as a competitor of illegal bookmaking, however, the surcharge must be seen as counterproductive. In any event, the surcharge on New York City OTB alone produced $32 million for governments in 1975 (not taking into account the much smaller amount lost as a result of the decreased 1975 OTB handle).

TABLE 5-38.—DISTRIBUTION OF NEW YORK CITY OTB REVENUE, 1971-1975

	Calendar year					
	1971	1972	1973	1974	1975	Totals
OTB Handle	[illegible]	[illegible],316,518	$691,279,639	$786,711,6[illegible]	[illegible]73,550,528	$2,[illegible],446,891
OTB Payments to Tracks						
NYRA*	596,478	4,741,549	8,847,275	15,794,149	16,084,359	46,063,810
Roosevelt	394,783	2,491,825	3,313,155	6,658,627	4,994,254	17,852,644
Yonkers	486,084	2,344,730	3,545,658	4,451,873	6,758,977	17,587,322
Monticello	128,080	899,118	594,888	656,866	1,147,812	3,416,764
Out-of-State		783,333	945,277	[illegible]	1,350,061	5,014,470
All Other			1,183			1,183
Total	$ 1,605,425	$ 11,250,555	$ 17,247,436	$ 28,897,314	$ 30,935,463	$ 89,936,193
OTB Allocations to Breeding Funds:						
Thoroughbred Breeding and Development Fund			153,854	306,723	300,468	761,045
Agriculture and NYS Horse Breeding Development Fund			155,898	396,497	391,271	743,648
OTB Earnings for New York City	3,138,654	16,065,590	39,031,273	54,232,455	64,086,434	176,554,406
OTB Earnings for New York State	1,819,582	8,767,843	16,311,698	18,087,810	18,361,538	63,348,471
OTB Surcharge Earnings for Other Local Governments				4,682,066	9,436,700	14,118,766

*The three New York Racing Association tracks are Aqueduct and Belmont in the New York City metropolitan area and Saratoga in upstate New York NYRA conducts thoroughbred racing at its three member tracks

Source New York City Off-Track Betting Corporation.

THE OTB CONTROVERSY

Off-track betting became a controversial subject long before its establishment in New York in April 1971. The principal adversaries in the OTB debate have been the racing industry on one side and State and local governments on the other.

The racing industry fought the establishment of OTB and continues to resist its expansion on an interstate basis. Today it is not so much the existence of OTB as the manner in which it is structured that arouses strong opposition within certain racing quarters. Many of the racing industry's objections to intrastate OTB are really objections to the OTB model that New York State has chosen to adopt, and to the evolution of that model.

A jurisdiction contemplating the establishment of an OTB operation has many structural alternatives available to it; the model ultimately selected should depend primarily on what it hopes to accomplish through legalization of the activity. Among the potential objectives of an OTB system are the following: to revitalize the racing industry or individual segments of it, to combat crime, to provide recreation for the public, to decriminalize a gambling activity so that police can spend more time controlling other crimes, and to raise revenue for government. An OTB system may, of course, encompass more than one of these objectives, provided that they are not mutually exclusive. For example, if the overriding goal of the OTB system is to maximize State profits, then the tracks' and horsemen's share of the handle will be relatively low. Once the goals have been established, decisions can be made regarding the structure of the OTB operation, the size and distribution of the takeout, the location of OTB offices, and the services provided.

When New York State enacted legislation permitting the establishment of OTB, it had two primary goals in mind: to raise revenue for the city and State treasuries and to combat illegal gambling. A secondary objective was to aid the racing industry. The desire to generate revenue for governments was uppermost in the minds of legislators, however, and the New York OTB model was an obvious reflection of that preference. The original OTB legislation gave almost all of the OTB takeout to government, leaving only between 1 percent and 1.5 percent of the handle for tracks and horsemen to divide. The legislation also stipulated that the tracks were to receive dollar-for-dollar reimbursement for losses in handle and attendance that could be traced directly to OTB. The commission responsible for regulating OTB was assigned responsibility for determining what the amount should be. This provision failed to result in any additional payments to the racing industry.

1970 was a record year for New York City's racetracks, but in 1971 average daily attendance and handle decreased slightly, followed by a substantial decline in 1972. Racing industry spokesmen attributed the decline primarily to OTB, while OTB proponents blamed other factors as well, such as a depressed economy, a strike at Aqueduct that resulted in the loss of 17 racing days, a 1 percent increase in the takeout rate, deteriorating track facilities, rising admission and parking prices, and increased competition from other leisure industries. Legislative amendments to the off-track betting statute in 1972 placed a temporary moratorium on OTB expansion and increased horse and track owners' share of the OTB handle on a temporary basis. At the same time, the Governor of New York appointed a Commission on the Future of Horseracing in New York (the Delafield Commission) to study the OTB problem and recommend changes. Additional amendments to the OTB legislation in 1973 incorporated some of the commission's recommendations; they increased the tracks' and horsemen's share of the takeout to their present levels and specified the tracks on which OTB could take bets. The legislation also eliminated the reimbursement provision discussed above, and it raised to the status of a primary objective the goal of aiding the racing industry.

These new measures unquestionably improved matters, but the extent of that improvement remains a topic of debate between the racing industry and OTB in New York. Many racetrack owners, perhaps because their experience with OTB has been limited to the New York model, believe that OTB would be unacceptable anywhere. They view OTB as their competitor, believing that OTB payments to tracks fail to compensate for the toll OTB exacts in decreased daily attendance and handle. OTB advocates, on the other hand, attribute current racetrack problems to other factors—principally the industry's alleged failure to take steps to expand its market as the number of racing dates increased. They believe that OTB is essential to the growth of racing—that in New York it has already benefited horsemen, and, in the future, will benefit the track as well.

Track owners who have reluctantly come to accept the existence of OTB would prefer to see it structured after the French system, in which off-track betting is operated by the same groups that conduct racing. At the very least, they want the track's share of the handle to be the same in OTB as it is at the track. Among horsemen, whose interests do not always coincide with those of the track owners, are those who prefer that OTB be operated by an entity other than the tracks or racing associations. Many horsemen also believe that racing's share of the takeout should be divided equally between the tracks and themselves, a policy currently followed by OTB pursuant to New York State law, but not by all New York racetracks.

The OTB problem is a complex one, partly because so many different—and often competing—interests are involved. A change in the OTB structure or regulations designed to benefit one interest may have to be accomplished at the expense of another. An example is the surcharge. The New York surcharge achieved its primary objective of raising additional revenue for New York City. But there is evidence that the surcharge has also resulted in reduced revenue for tracks, horsemen, and the State. There is also little doubt that the surcharge has resulted in increased business for illegal bookmakers. Tracks, horsemen, and breeders of racehorses also may have competing interests, so that an accommodation made for one may be unacceptable to the other. Finally, there is competition for OTB revenue between the different types of racing—thoroughbred, harness, and more recently, quarter horse racing—and between tracks in different areas of one State or in neighboring States.

Much of the OTB debate revolves around statistics, the interpretation of which often depends upon which side is being defended. Following are three statistical portraits of the New York City OTB operation, along with opposing interpretations of each.

Table 5-39 shows the additional revenues to government that OTB has been responsible for generating. During its

TABLE 5-39.—NET ADDITIONAL REVENUES TO GOVERNMENT AS A RESULT OF NEW YORK CITY OTB, 1975 COMPARED TO 1970*

	(In millions) 1975
Government's share of OTB handle	
1975 OTB handle	$773.6
Revenue distributed to:	
New York State	18.4
New York City	64.1
Other local governments	9.4
Total	$ 91.9
Government's share of on-track losses (resulting from decreases in daily handle) 1975 over 1970:	
Flat tracks (10.2 percent share of takeout × 14 percent decrease in handle × $3,174,000 handle per day × 263 days)	$ 11.9
Harness tracks (11 percent share of takeout × 4 percent decrease in handle × $2,056,200 handle per day × 309 days)	2.8
Total	$ 14.7
Net gain	$ 77.2
Distribution of net gain	
To New York State	$ 3.7
To New York City	64.1
To other local governments	9.4

*1970 base year for flat tracks, 1971 base year for harness tracks.

first 2 years of operation, the revenue OTB produced for government was not sufficient to offset losses produced by decreased track attendance and handle. But, as the table shows, OTB contributions to the New York City and State governments in 1975 resulted in a net gain of more than $77 million over 1970 levels. OTB proponents present these figures as evidence that OTB is achieving one of its principal goals—to generate revenue for the needy city and State treasuries. But to some opponents of OTB, these figures underscore what they perceive as the current system's fundamental inequity—that it enables governments to increase their revenue from racing while the racetracks providing the product deteriorate. Government should not be further enriched, they claim, at the expense of private enterprise, but only as a result of, or in conjunction with, the financial success of that enterprise.

Table 5-40 computes track losses in 1975 compared with 1970—the last full year without OTB. OTB contributions to the tracks in 1975 covered about $14 million of the theoretical $20 million loss experienced as a result of decreases in average daily attendance handle. It is important to note here that these figures do not represent actual losses to the tracks, but, rather, money that the tracks would have earned if 1975 average daily attendance and handle had equaled 1970 levels. New York City harness tracks operated in the black in 1975. NYRA's average daily revenues in 1975, including revenue from OTB, had risen by 23 percent over 1970 levels, but greatly increased expenses, including heavy debts from previous years, resulted in a loss of more than $3 million in 1975. Because OTB proponents believe that decreases in on-track daily attendance cannot be attributed solely—or even primarily—to OTB, they believe that the New York tracks sustained fewer losses than they would have if off-track betting did not exist. They point out that tracks all across the country, and particularly in the Northeast, have been experiencing declining daily attendance and handle, and that these declines cannot possibly be caused by OTB. Nevertheless, New York track owners believe that OTB has aggravated their financial problems and that OTB payments are insufficient compensation. And they believe it is unfair for a government to establish itself in competition with a private industry while at the same time using the product supplied by that industry—in this case horseraces.

TABLE 5-40.—TRACK NET LOSSES FROM ALL CAUSES, 1975 COMPARED WITH 1970*

	(In millions)
Track losses resulting from decreases in average daily handles and attendance 1975 over 1970	
New York Racing Association tracks	
Attendance[1]	$ 9.0
Handle[2]	6.1
Subtotal	$15.1
New York metropolitan harness tracks	
Attendance[3]	$ 3.6
Handle[4]	1.3
Subtotal	$ 4.9
Total flat and harness losses	$20.0
OTB contributions to tracks in 1975**	
To flat tracks	$ 8.0
To harness tracks	5.9
Total	$13.9
Net loss to tracks	$ 6.1***

*1970 base year for flat tracks. 1971 base year for harness tracks.

**Represents 50 percent of OTB distribution to tracks; remaining 50 percent is earmarked for purses.

***These figures do not take into account the effects of inflation.

[1] 27% decrease × 28,100 × $4.50 per capita × 263 days.

[2] 14% decrease × $3,174,100 × 5.2% share × 263 days.

[3] 20% decrease × 19,600 × $3 per capita × 309 days.

[4] 4% decrease × $2,056,200 × 5% share × 309 days.

Table 5-41 shows a net gain in horsemen's purses in 1975 over 1970 levels. Decreases in average daily attendance and handle at New York tracks resulted in theoretical on-track losses to horsemen of $4.8 million in 1975 over 1970. But contributions from OTB to horsemen of $13.9 million in 1975 resulted in a net gain to horsemen that year of $9.1 million more than in 1970. OTB spokesmen cite these figures as proof that OTB has helped horsemen. But because horsemen believe that average daily attendance and handle at the New York tracks would have increased each year rather than decreased if OTB had never been established, they believe that the increase in horsemen's purses would have been even more significant without OTB.

Since it is impossible to determine how New York tracks and horsemen would have fared if OTB had never been introduced, arguments such as the above—based purely on conjecture—cannot be conclusive. It is possible that, without OTB, track attendance and handle would have continued to increase after 1970, but they also could have remained about the same or decreased. In any event, operating under government auspices and for "public benefit" (i.e., public revenue and competition with illegal bookmakers), the OTB phenomenon is growing. OTB now covers most of New York State and has recently

TABLE 5-41.—NET GAIN IN HORSEMEN'S PURSES 1975 COMPARED WITH 1970

	(In millions)
Horsemen's share of OTB handle in 1975	$13.9
Horsemen's share of on-track losses resulting from decreases in average daily handle and attendance 1975 over 1970	
New York Racing Association tracks	
3.3% share × 14% decrease in handle × $3,174,100 × 263 days	3.8
New York Metropolitan Harness tracks	
3.8% share × 4% decrease in handle × $2,056,200 × 309 days	1.0
Total	$ 4.8
Net gain to horsemen:	$ 9.1

NOTE These figures do not take into account the effects of inflation.

spread into Connecticut. OTB opponents currently are concentrating their efforts in a battle against interstate[45] OTB, which they perceive as an enemy powerful enough to bankrupt all but the largest racetracks offering the richest purses.

Interstate OTB

Interstate off-track betting is not a new concept. Nevada bookmakers have been licensed since 1949 to take bets on races run anywhere in the country. Illegal bookmakers have been in business on an interstate basis much longer. But interstate parimutuel wagering has only come about since the establishment of New York OTB.

The New York OTB statute contains a provision enabling OTB offices in New York to take bets on out-of-State races under the following condition: that bets may only be accepted when there is no racing of that type (thoroughbred, harness, or quarter horse) in New York State, with the exception of a maximum of five thoroughbred and five standardbred races a year which are considered special events (such as the Preakness, the Colonial Cup, and the D.C. International).[46] In accordance with these provisions, New York OTB has accepted wagers on races run in Maryland, Florida, Pennsylvania, South Carolina, and Delaware. The law contains provisions for the compensation of New York tracks (and horsemen) when OTB accepts wagers on out-of-State races. OTB also enters into contracts to compensate the out-of-State tracks supplying the races, but New York law imposes a limit on the percentage of OTB handle that the out-of-State tracks can receive. Opponents of interstate OTB believe that the New York policy unfairly reduces the commercial bargaining power of out-of-State tracks.

Disagreement has also arisen regarding the Kentucky Derby. When Churchill Downs declined to negotiate with OTB, OTB officials decided to accept wagers on the Derby without the track's permission, claiming that the nature and popularity of this event place it in the "public domain." The money that would have gone to Churchill Downs—$127,000 in 1975—was paid to New York tracks. From 1972 to 1975, out-of-State racing industries received a total of $5,014,470 from New York City OTB (table 5-42).

Connecticut is the most recent State to establish interstate off-track wagering. As noted earlier, Connecticut OTB uses New York horseraces exclusively. Its contract with the New York Racing Association is subject to approval by the New York Racing and Wagering Board. The OTB system itself is operated by a private computer firm. The Connecticut OTB operation is unique in the United States in that it is the only gambling operation to rely completely on a product borrowed from another State. Similar arrangements do exist, however, in other countries. When fully operational, the Connecticut system will offer betting parlors and telephone service similar to that provided in New York, as well as "minitheaters" designed to simulate the racetrack atmosphere by enabling patrons to bet on televised races.

TABLE 5-42.—PAYMENTS BY NEW YORK CITY OFF-TRACK BETTING TO NEW YORK AND OUT-OF-STATE TRACKS FROM INTERSTATE WAGERING POOLS, 1972-1975

	Payments to	
Year	Out-of-State tracks	New York tracks
1972	$ 783,333	—
1973	945,277	—
1974	1,335,799	$1,175,000
1975	1,948,536	1,436,000*
Total 4 years	$5,012,945	$2,611,000

*Includes $127,000 that was paid to New York tracks on the Kentucky Derby.

Since Connecticut has no horseracing within its borders, its off-track betting system cannot affect any present in-State racing concerns. (Whether Connecticut OTB may adversely affect racing in Massachusetts or Rhode Island has been the subject of debate, however.) In New York horseracing preceded OTB, but in Connecticut, OTB will be the vested interest when horseracing is introduced. The Connecticut Commission on Special Revenue has granted racetrack licenses to two private organizations, but construction cannot begin until the licensees have satisfied the various environmental, financial, and other contingencies required by the license.

The controversy surrounding interstate off-track betting has spread beyond the borders of New York and Connecticut. Owners of small- and medium-sized racetacks around the Nation fear that interstate OTB parlors would put them out of business by offering racetrack patrons the opportunity to bet on higher quality races run elsewhere. The expansion of interstate OTB, they claim, would drastically decrease track attendance, reducing the number of tracks to a few televised centers. As more tracks close, they say, the number of racehorses would decline drastically and thousands of workers—trainers, farm and backstretch personnel, and suppliers of goods and services—would lose their jobs. The racing industry believes that the only effective weapon against interstate off-track betting is a Federal law banning the practice entirely.[47] The current system, in which the relevant State racing commissions must approve interstate racing compacts, is unacceptable to the industry because it fails to protect the interests of the "third State"—a State whose racing may be harmed when its neighbor begins accepting interstate wagers.

From a State's point of view, the concept of interstate off-track betting appears to offer large new sources of revenue as well as the potential for driving illegal bookmakers out of business. It was those two incentives that prompted Connecticut to legalize OTB and the legislatures of several other States to study the matter. Proponents of OTB also believe it has the potential for substantially increasing horsemen's purses. And finally, say its advocates, interstate off-track betting can develop renewed public interest in racing by providing wider television coverage of racing than now exists and by encouraging breeders and owners to spend the time and money needed to produce racehorses of superior quality.

OTB AND ILLEGAL BOOKMAKING

While there is no question that New York OTB is generating revenue for State and city governments, there is some question whether it is achieving the second of its two principal objectives—"to prevent and curb unlawful bookmaking and illegal wagering on horseraces."

In testimony before the National Gambling Commission, Paul R. Screvane, president of New York City OTB, quoted a statement by New York City Police Commissioner Michael J. Codd that "numerous small bookmakers, the handbooks specializing in horserace action, have had their business seriously disrupted by OTB. Some of these handbooks are in fact no longer in business." Screvane (and Codd) noted that horse books have a much smaller volume of business than sports books and that OTB is less effective against large-scale bookmaking operations, since such operations are able to take bets on team sports and offer tax-free winnings. Commissioner Codd's statement further noted that the New York City Police Department has "no evidence" that bookmakers make extensive use of OTB to layoff bets, as some OTB critics have charged. OTB corporations believe that their current computer-based and manual control systems help prevent the use of OTB for illegal layoff purposes. Sufficient evidence is not available at this time to resolve this issue.

While not distinguishing between small- and large-scale bookmaking operations, data gathered by the Gambling Commission indicate that during the period in which OTB has been in operation, there has been a net increase in illegal bookmaking in New York City. The Commission's survey of American gambling behavior and attitudes (see chapter 4) included a set of questions designed to determine the net impact of OTB on bookmaking in New York City.

One-third of the 864,000 residents of metropolitan New York who bet with OTB in 1974 said they had bet with bookies before OTB went into operation, which means that OTB has tapped a large market of clients with no prior illegal horse-betting experience. Among these clients were a projected 69,000 people who stated that they had begun wagering with illegal bookies since the introduction of OTB. On the other hand, a projected 67,000 OTB patrons—all bookie bettors before the advent of OTB—said they did not bet with bookies in 1974. This amounts to a net gain to illegal operations of about 2,000 people. It should be noted that these projections are based on a very small number of interviews and thus can be construed only as suggestive of a certain pattern of betting activity. And although there appears to have been a small net increase in illegal bookmaking operations in New York, it cannot be determined on the basis of available data whether OTB bears any significant responsibility for that increase. The figures do not indicate, for example, how many of the 69,000 people who began wagering with illegal bookmakers after first having bet with OTB would have started betting illegally even without the existence of OTB.

Even if OTB has been a factor in the apparent increase in illegal bookmaking, it alone cannot be blamed for that increase. At least three other factors—in addition to their ability to offer credit, tax-free winnings, and other attractions—give bookmakers a competitive advantage over OTB. In order to reduce police corruption, the New York City Police Department since 1971 has stopped arresting lower echelon illegal gamblers. Because bookmakers pay much less protection money to police, the cost of their operation has decreased, allowing more of them to operate profitably and stay in business. With more bookmakers on the street and operating virtually in the open, customers may find the illegal operators even more accessible and convenient than local OTB parlors. Another factor is that most bookmakers also take sports bets, while OTB can only accept wagers on horseraces. This makes bookmakers more convenient to people who want to wager both on horses and on sports. Finally, the OTB surcharge on winnings has undoubtedly driven some OTB customers to illegal bookmakers, including at least some people who had begun to use OTB instead of their bookmakers before the surcharge was imposed. Although additional research is needed to determine conclusively the relationship between OTB and illegal bookmaking, data obtained thus far do not support any assumptions that OTB has decreased participation in illegal wagering or cut into the profits of bookmakers and organized crime. It should be kept in mind that, as discussed elsewhere in this Report, other legal gambling industries that have tried to compete with their illegal counterparts have been unsuccessful in that regard.

GAMBLING SURVEY RESULTS

Additional findings of the National Gambling Commission's survey are summarized below.

1. OTB Bettors (table 5-43). Nearly 14 percent of the adult population of New York City placed a legal OTB bet in 1974. The average annual wager per bettor was $1,118.

OTB is a slightly regressive form of gambling—that is, people in the lower income brackets spend proportionately more of their income on it than those in the higher brackets. But, overall, OTB is less regressive than most other forms of gambling, including horse tracks and illegal horse books. Participation in OTB increases as income increases. But although there were proportionately fewer OTB bettors among low-income people, the average bettor earning under $10 000 wagered more than 15 percent of his annual income on OTB. High-income people wagered more heavily with OTB than did middle-income people.

2. Attitudes Toward Legalization (table 5-44). In the Nation as a whole, 38 percent of the people interviewed favored legalization and 51 percent opposed it. Less than half of those who said they favored legal OTB said they would patronize it.

Almost half the people who bet with illegal bookies in 1974 said they would use OTB if certain desirable features such as credit, telephone service, and tax-free winnings were added. Only 12 percent said they would not use OTB under any circumstances.

TABLE 5-43.—OTB AND FAMILY INCOME

	Family income				
	$0 to 10 000	$10 000-15 000	$15 000-20 000	Over 20 000	Total sample
Percent who bet	9.9	14.8	21.2	27.3	13.5
Average annual bet per bettor	$1,595	$354	$743	$1,412	$1,118
Average annual bet per capita	$ 158	$ 52	$158	$ 385	$ 151
Average annual takeout per capita (takeout rate = 21%)	$33.16	$ 11	$33.09	$80.15	$31.71
Percent of income:					
Bet per capita	2.17	0.21	0.38	1.92	0.57
Taken out per capita	0.455	0.072	0.079	0.081	0.114

TABLE 5-44.—ATTITUDES TOWARD LEGALIZATION OF OTB

	Percent		
	Total sample	New York OTB	States where OTB is not legal
Positive to legalization	38	42	29
Negative to legalization	51	47	61
Unsure	5	6	4
No answer	6	5	6
Willingness to bet with OTB			
Would bet	14	—	—
Would not bet	73	—	—
Don't know	2	—	—
No answer	11	—	—
Willingness to use OTB instead of bookies	1974 Bookie bettors		
Would use instead of bookie if available	55		
Would use instead of bookie if available and desirable features added	33		
Would not use instead of bookie	12		

3. OTB Operation and Regulations (table 5-45). The majority of those interviewed stated that they would prefer State or local, rather than Federal, regulation of OTB. A majority said OTB should be operated by people in private business rather than by government employees.

4. Necessary Features (table 5-46). Those who bet with bookies in 1974 were asked what features OTB would have to include before they would bet with OTB instead of a bookie. The most frequently mentioned feature was tax-free winnings. One-fifth of the bettors said credit was desirable but only 4 percent said it was necessary. Twenty-two percent said that telephone service was necessary.

5. OTB Surtax (table 5-47). New Yorkers were asked if they knew about the OTB surtax. Two-thirds of the OTB bettors knew about the tax, most of whom said they would use OTB more if the tax were repealed.

6. OTB and Track Attendance. New Yorkers, despite the presence of OTB, still go to the track more frequently than would be suggested by other characteristics—age, income, religion, race, etc.—which appear to explain betting at the track in other areas of the country. Not only do they go to the track more frequently, they also bet more when they go. A substantial majority of OTB patrons (63 percent) also go to the track, do so more often (23 days per year), and bet more heavily ($73 per day) than track bettors nationwide. These results cannot be construed as a positive demonstration that OTB has had no negative influence on track attendance and handle.

TABLE 5-45.—OPERATION AND REGULATION OF OTB IF IT BECOMES LEGAL

	Percent
Should be operated by:	
Government employees	30
Private businessmen	55
Nonresponsive answers	15
Should be regulated by:	
Federal Government	18
State government	42
Local government	37
Don't care	3

TABLE 5-46.—FEATURES NECESSARY AND DESIRABLE IN A LEGAL OTB SYSTEM

	1974 Bookie bettors (percent)	
Features	Desirable OTB features	Necessary OTB features
Telephone service	0	22
Credit	19	4
Flexible settlement dates	0	4
Payoff as good as bookies	9	9
No income taxes on winnings	64	42
No features absolutely necessary	9	

For example, the survey does not indicate whether the OTB patrons who also go to the track would go more often than 23 times a year if OTB did not exist. Nor does it indicate whether these people would bet more than $73 each time they attended if there were no off-track betting. But neither do the results support the hypothesis that OTB decreases track attendance and handle.

In summary, it is apparent that off-track betting in New York has not been a complete success from all points of view. Other States contemplating the establishment of off-track wagering, however, are not bound to the New York model. The recommendations that follow attempt to confront some of the problems of New York OTB and to offer alternatives. The Commission reminds those States considering OTB that, in addition to establishing policy objectives such as revenue or crime control, they must also realistically consider the unique geographic, demographic, cultural, and socioeconomic factors which necessarily influence the success or failure of any legal gambling enterprise.

TABLE 5-47.—KNOWLEDGE OF OTB SURTAX

	Percent			
	Total New York sample	1974 OTB bettors	Former OTB bettors	1974 New York bookie bettors
Is there an extra tax on OTB?				
Yes	39	66	78	31
No	8			18
Don't know	36			51
No answer	17			0
	100			100
Would you use OTB more if there were no tax?				
Yes	35	54	0	71
No	62			29
Don't know	3			0
No answer	0			0
	100			100

CONCLUSIONS AND RECOMMENDATIONS

Off-track parimutuel wagering has become the subject of heated controversy between State governments and the racing industry. The battle is waged on two fronts: interstate and intrastate. The horseracing industry has united behind an effort to have the Federal Government prohibit all interstate off-track parimutuel wagering. Such unity does not exist, however, on the issue of intrastate OTB. Some track owners and horsemen, while opposing the New York OTB model, would favor the adoption of an intrastate OTB designed to give the racing industry greater control over OTB operations. Other track owners and horsemen would not oppose a government-operated OTB system provided it avoided direct competition with tracks for the same betting market.

Interstate OTB

Most efforts against parimutuel off-track wagering have centered on interstate OTB; a bill now before the 94th Congress—H.R. 14071—would prohibit all interstate off-track parimutuel wagering "to protect and further the horseracing industry in the United States." **The Commission recommends that Congress not pass H.R. 14071.** To do so would violate what the Commission believes to be the appropriate national policy toward gambling: That unless there is evidence of a national interest or of interference by one State with the gambling policies of another, each State should have the primary responsibility for determining what forms of gambling may legally take place within its borders.

In accordance with the general position, **the Commission recommends that interstate OTB be prohibited only in States which have themselves taken legislative action against it.** In one State, the action may take the form of making all betting a criminal offense; in another, intrastate OTB may be allowed but interstate OTB prohibited. Passage and enactment of H.R. 14071, the Commission believes, would be an unwarranted intrusion by the Federal Government into an area of regulation better left to the States. The Commission further finds no convincing evidence that "off-track parimutuel wagering on an interstate basis will result in a severe decrease in the number of racetracks" or that "interstate off-track parimutuel wagering greatly increases the availability of prerace and postrace information which would otherwise be unobtainable by illegal wagering operation [leading] to an increase in illegal wagering," as claimed in H.R. 14071. The argument that the number of racetracks will severely decrease is speculative; even if it were true, the Commission finds no apparent national interest in the continued existence of racetracks that are economically unable to compete in the marketplace with other forms of legal wagering. In addition, illegal interstate bookmaking operations are currently able to receive all necessary prerace and postrace information; the Commission believes the existence of interstate OTB would not materially improve that capability.

Nevertheless, Congress itself may determine that the need to further assist and protect the horseracing industry by the blanket prohibition of interstate off-track parimutuel wagering constitutes a national interest, or that interstate OTB legislation is needed to prevent the interference by one State with the gambling policies of another. If so, the Commission advises the passage of a bill that would prohibit interstate parimutuel off-track wagering except when pursuant to an agreement between the racing commissions of the State in which a horserace takes place and the State taking bets on that race. Such a bill would avoid the possibility of one State's "pirating" the races of another State, but would permit interstate off-track parimutuel wagering when it is mutually beneficial to the two States involved.

Intrastate OTB

As noted earlier, intrastate OTB presents different kinds of policy issues. Diverse formats may be followed by States establishing OTB. Consistent with its national policy on gambling, the Commission takes no position on the advisability of any State's instituting intrastate parimutuel off-track wagering. The Commission recognizes that State policies in this area, as in all other areas of gambling policy, will vary because of the different cultural, social, economic, and political circumstances prevailing in each State. Permitting OTB may be an appropriate public policy for one State, yet inappropriate for another.

The only State currently conducting intrastate off-track parimutuel wagering is New York. Much opposition to New York's intrastate OTB has arisen among members of the racing industry in New York who claim that it has hurt New York's racing industry. Others in the racing industry fear that a New York-style intrastate off-track parimutuel wagering system may be instituted elsewhere; their resistance springs from New York's utilization of OTB primarily as a State and local revenue measure, and only secondarily as an aid to racing. The practical result of this policy has been that most of the controversies between the racing industry and the government-operated OTB corporations have been resolved in ways that favor OTB.

The New York model represents only one of many possible courses that could be taken by a State establishing an intrastate off-track parimutuel wagering system. An arrangement whereby OTB parlors are regulated by the State and operated by the tracks, as is done in France and Japan, is the system most often proposed by members of the racing industry who favor intrastate OTB. Suggestions have also been made that OTB can best be operated by parties who are affiliated with neither the State nor the tracks.

The Commission believes that States which decide to institute intrastate OTB will find their best model in a nonprofit, government-controlled corporation. The advantages of such an operation are twofold. First, since any OTB operative, in the course of doing business, must necessarily make policy judgments that are to some degree political (such as the types of bets to be accepted and the amount of credit that may be extended), governmental control is therefore most appropriate; second, if the State, rather than a private party, becomes the OTB entrepreneur, an unncessary partner will be eliminated from the distribution of revenues.

Parimutuel off-track wagering systems can be designed to provide reasonable revenues to the State, to allow persons unable to get to a racetrack to place a bet, and to maintain and further assist existing racing industries. These are reasonable goals for an OTB system, and prospective OTB States are capable of striking the proper balance among them. To assist States considering the institution of intrastate OTB, the Commission suggests that they utilize a model statute it has formulated (see the appendix to this Report) through which an off-track parimutuel wagering system could be implemented. This statute includes stringent financial disclosure requirements and conflict of interest provisions. Because the Commission believes that any OTB State should coordinate that activity with its other gambling activities, the model statute would establish an umbrella organization to oversee all areas of State regulatory involvement in gambling activities.

The model provided in the appendix specifies no set distribution formula to govern the proportion of monies to be divided among the State, horsemen, and tracks. As general guidelines, however, a State considering the institution of intrastate parimutuel off-track wagering should note that the takeout and distribution structure adopted in New York does not effectively accomplish the goals of aiding both government and industry. In addition, since experience in New York has shown that a decrease in daily track attendance will occur during the initial OTB period, a State should take a smaller percentage of wagering revenues during the inaugural 24 to 36 months of off-track parimutuel wagering to compensate the track and/or horsemen for the initial loss of revenue sustained during that period. The actual length of time for the smaller percentage of takeout by the State, and the calculation of that percentage, depend upon the existing financial structure of the racing industries in each State. The Commission feels that in order for an intrastate parimutuel off-track wagering system to benefit the racing industry, the total share of revenue accruing to the State should be kept under its maximum theoretical takeout, since the final takeout under such a system—as in New York—represents costs to the racing industry as a whole. **In order to achieve an effective limit on government taxation, a situation where State and local governments separately partake of the parimutuel revenue pool should be avoided.**

The Commission does not believe that the extension of current State gambling policies to the OTB arena will provide illegal gamblers with significant legal competition. The Commission supports the concept of the use of legal gambling as a tool against organized criminal activity. But a parimutuel off-track wagering system supported or operated by the State will not be able to compete effectively with illegal bookmakers if it subjects winnings received from legal OTB to taxation. As discussed earlier in this Report, winners in illegal gambling activities do not declare the income they receive. The Commission believes that a State should not tax legal OTB winnings if it intends legal parimutuel off-track wagering to be a tool against organized crime.

The Commission opposes State policies that would—however inadvertently—enlarge the betting market available to illegal bookmakers. For this reason, **the Commission recommends that advertising of legal**

parimutuel off-track wagering be confined to informing the public of the availability of the service and not be aimed at creating a greater demand for OTB. Public relations campaigns promoting OTB have been undertaken in New York. a survey conducted for the Commission demonstrated that, although legal parimutuel off-track wagering attracts a good number of previous illegal bettors, a significant number of New Yorkers began betting with illegal bookmakers after becoming acquainted with off-track betting through legal State or local outlets.

The implications of that finding are disturbing, and have been acknowledged by the National Association of Off-Track Betting (NAOTB), which is studying the problem of self-regulation of advertising through the formation of an advertising code of ethics. Because the proposed code is not yet completed, the Commission is unable to determine its potential effectiveness, but States considering the establishment of intrastate OTB should examine the NAOTB code of ethics when it appears to determine whether it can help protect government from becoming involved in the active promotion of gambling.

One important marketing decision facing a prospective OTB entrepreneur is the location of betting parlors. If OTB shops are placed near existing tracks, they will necessarily compete for bettors with the tracks. If they are placed in areas remote from the tracks, the State may be placed in the position of promoting parimutuel off-track wagering among citizens who had not previously participated in that activity. In the first instance, the State may arrange with the racing industry for a mutually acceptable schedule of compensation. In the second case, **the Commission recommends that States considering establishing OTB parlors in areas remote from tracks fully investigate the parlors' potential effect upon the new betting clientele that may be created thereby and the number of those new bettors who may later bet with illegal bookmakers before creating such OTB parlors.**

It should be emphasized that no OTB operation or racing regulatory agency that is underfinanced and understaffed can properly do its job. **The Commission strongly urges States to provide a level of funding to off- and on-track regulating agencies that will enable them adequately to police and supervise those activities.** An off-track parimutuel wagering system that functions perfectly well on paper will not serve the people of the State or the racing industry if it is not supported by the State legislature.

The Commission's opposition to the proposed prohibition of interstate parimutuel off-track wagering is based on its general philosophy as expressed in the national policy toward gambling, even though it recognizes that its recommendations concerning interstate and intrastate parimutuel off-track wagering may be somewhat unpopular among certain elements of the racing industry and the public. Legal intrastate OTB is neither recommended nor disapproved by the Commission. The States themselves will make the policy decision concerning the institution of off-track betting. In these areas, as in others in the gambling field, the Commission leaves determination of gambling policies to the States, hoping that the various systems of OTB discussed above will help them in doing so.

LOTTERIES

INTRODUCTION

State-operated lotteries are conducted in 13 States which stretch from Maine in the North to Illinois in the West and Maryland in the South, with the exceptions of Vermont and Indiana. These States account for approximately 40 percent of the Nation's population. Raffles are legal to some extent in 21 States. In the other 29 States they are totally prohibited, either by a specific statute outlawing raffles or defining them as illegal lotteries (see table 5-48).

State-operated lotteries, a comparatively recent development in legal gambling, are the third most widely available form of gambling—after bingo and parimutuel wagering. Approximately 70,000 sales outlets make State-conducted lotteries the most accessible form of gambling to the public in those States.

Since the reintroduction of legal lotteries in 1964, lottery commissions have striven to promote lottery games that will appeal to the demands of the gambling public in their States. Expensive tickets and lack of action plagued both the original New Hampshire Sweepstakes in 1964 and the New York Lottery in 1967: Revenues for both lotteries were much lower than had been anticipated. In contrast, the New Jersey 50¢ weekly game, introduced in 1971, proved enormously successful because of its affordable tickets and quick results. Lotteries are viewed by their participants as a passive form of gambling that is free from corruption and generates substantial revenues for government. To increase participant involvement, State lotteries frequently market lottery games that feature faster action and a greater degree of participation by ticket purchasers; the games have enjoyed significant increases in ticket sales. The instant lottery game, introduced in Massachusetts in 1974, has proven to be the most innovative and lucrative game the lotteries have yet marketed. Gross lottery sales increased by 45 percent in 1975 over the previous year, and most of the increase must be attributed to the phenomenal success of the instant games.

Another innovation in the legal lottery industry designed to provide purchasers with a greater sense of participation is the daily numbers game introduced by New Jersey in May 1975 and in Rhode Island and Massachusetts in 1976. State lotteries had demonstrated an ability to attract great volumes of money through their limited-action, nonparticipatory lottery games, but the introduction of the daily numbers game in New Jersey may also be viewed as the first legal game established specifically to combat an ongoing illegal operation.

Since the introduction of the original New Hampshire Sweepstakes in 1964, the State lotteries have systematically increased public awareness and participation in this passive form of legal gambling through their ability first to identify their market, and second, to produce and advertise a diverse line of games in order to cater to the particular desires of different segments of the population within their States. This chapter examines the various aspects of lotteries and raffles, their history and development, the organizational structure and operations of the State lotteries, the revenue produced and the potential for increased earnings, and the issues that confront the industry now as well as in the future.

HISTORY AND DEVELOPMENT

A lottery is a form of gambling in which chances to share in a distribution of prizes are sold.[48] The three essential elements of a lottery or a raffle are an investment by the player, chance, and a prize. Raffles tend to differ from lotteries only in the manner in which prizes are awarded. The former also generally offer goods rather than cash awards, are smaller in scope, and are more often conducted by churches and other charitable organizations.

Evidence of the application of lotteries and raffles for the purpose of raising needed capital for use in the United States can be found as early as the financing of the original English settlement at Jamestown by the Virginia Company in London.[49]

During the colonial period, groups of citizens petitioned their legislatures for permission to engage in a lottery to finance local needs. State legislatures, unwilling to levy new taxes, granted licenses and established rules for the lottery.[50]

Lotteries were most active during the period following the adoption of the Constitution in 1789 and prior to the establishment of effective means of local taxation and the wave of antilottery reform in the 1830's. The ever-expanding size and population of the Nation required great sums of development capital to finance public works, churches, schools, and universities.[51] Local operations were replaced by statewide and national schemes. This evolution created new conditions and greater problems.[52]

As more and more lotteries were authorized by State legislatures to raise larger and larger sums of money, two significant problems developed that were to cause the demise of the lottery as an instrument of public fiscal policy: (1) increased competition in each of the States due to the number of local and out-of-State lotteries, resulting in capital shortfalls and defaults by lottery managers, and (2) the development of a group of commercial middlemen, the ticket broker and the lottery contractor, who expanded the scope of market areas to national proportions. Brokers purchased tickets at a discount from the operating entrepreneur and resold them to the public at inflated prices. Lottery contractors were hired by the sponsors to operate the lotteries; these contractors hired ticket brokers to sell tickets.[53] Eventually, five or six national lottery companies dominated the

TABLE 5-48 — AUTHORIZED LOTTERIES AND RAFFLES

Lotteries

1964-1971	1972	1973	1974	1975
New Hampshire	Connecticut	Maryland	Illinois	Delaware
New York	Massachusetts		Maine	Omaha, Neb.
New Jersey	Michigan		Ohio	
	Pennsylvania		Rhode Island	

Raffles

State	Licensing authority	Fee	Qualified organizations*
Alaska	St. Dept. of Revenue	$10	charitable as defined in statute
Colorado	Secretary of State	$50	charitable as defined in statute
Connecticut	Chief of Police, or First Selectman	$5, $10, $15/day, $35	charitable as defined in statute
Iowa	St. Dept. of Revenue, city or town council, county bd. of spvrs.	$10	charitable as defined in statute, fairs, and amusement parks
Louisiana	local governing body		charitable as defined in statute
Maine	Chief of State Police	$5	charitable as defined in statute
Maryland	County Sheriff, Chief of Police in Baltimore City	$5	charitable as defined in statute
Massachusetts	Com. of Public Safety, city or town clerk	$10	charitable as defined in statute
Montana	city or town council, or county commission		profit or nonprofit organizations
Nebraska	State legislature may authorize and regulate, no permit necessary		charitable as defined in statute
New Hampshire	local governing body		charitable as defined in statute
New Jersey	municipal clerk	$5 or $10	charitable as defined in statute
New Mexico	no permit		fairs for charitable purposes
Oklahoma	no permit		military posts, only voluntary contributions allowed, for community chest welfare funds
Oregon	no permit		charitable as defined in statute
Rhode Island	Chief of Police, Police Commissioner, town sergeant		charitable as defined in statute, only door prizes allowed
South Dakota	State legislature authorization, notice to be given by operators to local governing body 30 days prior to event		charitable as defined in statute
Vermont	no permit		charitable as defined in statute
Virginia	local governing body		charitable as defined in statute
Washington	State Gambling Com.	fixed by Commission	charitable as defined in statute
Wyoming	no permit		charitable as defined in statute

*Denotes number of years organization must be established in order to be eligible for a license to conduct a raffle industry, which had become not so much a means of raising public revenue as a multimillion dollar business enterprise. The establishment of a number of the Nation's most prestigious banks and brokerage houses came as a result of the organizational structure and function of the lottery contractors in the early 19th century.[54] The First National City Bank of New York and Chase Manhattan Bank were founded by former lottery managers.[55] Between 1790 and 1860, 24 of the 33 States had financed internal improvements through lotteries, and an estimated $32 million was raised.[56]

In spite of the merits of the system, the discovery of corruption and fraud among public officials and lottery contractors aroused a wave of public indignation against lotteries in the 1830's. Before the advent of the three-number combination system of lottery drawings, drawings could drag on for months at a time. Each ticket and its corresponding prize slip or blank were drawn individually or in small groups. On each day a certain number of tickets were drawn, which encouraged the practice of "insuring" particular numbers: A person could bet that a certain number would be drawn on a particular day, or that a particular number would win a prize or draw a blank according to a ratio of increasing odds as the drawing progressed. Measures enacted by the States to prohibit the practice of "insurance," or otherwise to guarantee the honesty of lottery operations, were ineffective.[57]

Organized opposition to the lotteries during the early 1800's was confined to the Society of Friends and a small number of newspapers. Most organized religions took no stand regarding the morality of lotteries; many, in fact, used lotteries and raffles to finance the construction of churches. The great majority of newspapers endorsed or ignored the use of lotteries and benefited from the advertising revenue supplied by the games.[58]

As more and more newspapers published accounts of corrupt lotteries and their deleterious effect on segments of the population least able to afford the purchase of tickets, lottery authorizations decreased or were abolished altogether in most northern States by 1840. The increasing incidence of profiteering by middlemen eventually incited public indignation in the South and West as well. By 1860, every State in the Nation except Delaware, Kentucky, and Missouri had enacted constitutional or statutory prohibitions against any and all lotteries.

The financial needs brought about by the Civil War and Reconstruction caused a revival of authorized lotteries in the South and West.[59] The national scope of these lotteries, their continued corruption, and the ineffectiveness of nonuniform State prohibitions demonstrated the need for corrective Federal legislation.

The legislative history of Federal antilottery statutes began in the 1860's. Before that time, lotteries were identified as a State matter, regulated and enforced at the State or local level.

The infamous Louisiana Lottery Company was chartered in 1868 for a period of 25 years.[60] At about that time, a number of bills were enacted by Congress to preclude the use of the mails to lotteries when it became apparent that State laws lacked effectiveness in dealing with out-of-State lotteries. In spite of Federal antilottery laws enacted in 1864, 1868, 1872, and 1876, however, the Louisiana Lottery continued to expand. Its continuation could be attributed in part to the failure of enforcement officials to prosecute the lottery managers for flagrant violations of State and Federal laws.

From the time of its inception, the Louisiana Lottery controlled legislatures, newspapers, banks, and Governors and other officials. It successfully suppressed opposition through bribery, received nationwide support amounting to $30,000 a day, and made profits as high as $13 million a year.[61]

The lottery conducted several types of monthly drawings, with tickets ranging in price from $2 to $40. A special top prize offered $600,000 to the winner. Total prize pools amounted to $2 million per drawing and $28 million per year. Its daily lottery offered a $5,000 grand prize on tickets selling from 20¢ to $1. The "policy" games associated with the daily lottery attracted the greatest levels of criticism due to aggressive promotion and their affordability to the local poor.[62]

National criticism grew as the Louisiana Lottery penetrated every State in the Union. Ninety-three percent of the lottery's gross revenue came from outside Louisiana. Reformers, labor and farm organizations, newspapers, and churches all pressed for remedial Federal action.[63]

Experience had shown that the 1876 Federal antilottery statute—enacted to exclude letters, circulars, and similar lottery materials from the mails—was too vague and had not been enforced. In 1890, a new provision was enacted that made the act of mailing lottery letters or circulars a continuous offense, triable by a court in any jurisdiction through which lottery material had been transported. The Louisiana Lottery had regularly paid off jurors within the State in order to avoid conviction for an unlawful lottery act. It was hoped the new provision would secure a fair trial in localities where the influence of the lottery was not established.

The 1890 antilottery statute banned all lottery materials from the mails; prohibited the sending of checks, drafts, or money orders for the purchase of tickets; and outlawed the mailing of lottery advertisements. For the first time, violations of law were made punishable by imprisonment. The law also prohibited the lottery from channeling its operations through an agent or representative, as the lottery had done with the New Orleans National Bank. Use of the mails was closed to newspapers that contained lottery advertisements and lists of prizes, and the penalty for mailing lottery materials or money by the public to the lottery company was extended to include the mailing of such materials by the company to the public.[64]

In 1895, Congress acted to authorize the Postmaster General to instruct postmasters to withhold delivery of lottery-related mail and to deny any person acting as an agent of a lottery company the use of the mails.[65] Interstate transportation of lottery materials and the use of express mailing were also made illegal in 1895. These antilottery laws deprived the Louisiana operation of the methods by which it had evaded State and Federal statutes. With its demise, State-authorized lotteries vanished from the American scene for the next 70 years.

In the 1930's—and continuing to some extent to the present—the United States was flooded with lottery materials and tickets from the Irish Sweepstakes as well as from lotteries based in Latin America and the Caribbean. Enforcement activity by the Post Office Department was not uniform, and many abuses of the antilottery statutes were overlooked. Many newspapers freely published lists of American prizewinners in the Irish Sweepstakes and continued to do so without penalty. (Today, according to lottery directors, Irish Sweepstake sales have drastically decreased in States where it competes with legal lotteries.)

Following the Nation's first congressional hearings concerning the activities of organized crime, Congress approved the Revenue Act of 1951. This act provided for an annual $50 Occupational Tax Stamp to be purchased by all persons engaged in a gambling enterprise, and a 10 percent excise tax on the gross receipts accepted by an individual engaged in the wagering business. These provisions were incorporated into the Internal Revenue Code of 1954.[66] Enactment of the wagering tax statutes was not effected with lotteries in mind, but the applicability of the wagering excise tax against lotteries became an issue in 1964, when New Hampshire became the first State in the 20th century to authorize a lottery.

New Hampshire has an atypical tax structure—the State has no income tax or sales taxes, and relies instead on property taxes and on the imposition of excise taxes on alcohol, cigarettes, gasoline, etc. In April 1963, the Governor signed legislation authorizing the New Hampshire Sweepstakes Commission to conduct a lottery based on the results of an annual Sweepstakes Race. Most of the arguments presented in favor of the proposal stressed the necessity to provide additional revenue for the municipalities, specifically for education purposes.[67] The U.S. Department of Justice had assured the State that no violation of Federal law would be caused by the sale of Sweepstakes tickets to residents or nonresidents so long as interstate traffic was not involved.[68]

National attention was focused on the New Hampshire experiment, but its lower-than-anticipated revenue figures—perhaps caused by the expensive $3 tickets and lack of action (annual, later semiannual Sweepstakes races)—and strong Federal laws against interstate lottery traffic discouraged other States from joining New Hampshire in the State-conducted lottery industry for another 3 years.

In 1964, the Internal Revenue Service ruled that New Hampshire had to pay the 10 percent wagering excise and that each vendor of Sweepstakes tickets had to have an Occupational Tax Stamp in order legally to sell tickets from the State lottery. The New Hampshire Sweepstakes Commission paid out over half a million dollars in 1964 in compliance with that ruling and purchased approximately 300 Occupational Tax Stamps for its State employees who sold the tickets at State-operated liquor stores.

In 1964, however, Congress—over the strong objection of the Secretary of the Treasury—acted to exempt State-conducted sweepstakes from the imposition of the wagering excise tax and the need to purchase the $50 Occupational Tax Stamps.[69] Congress acted to exempt the New Hampshire Sweepstakes from the imposition of those taxing measures when it recognized that such imposition was an undue interference with a sovereign State's right to raise revenue. The IRS returned $728,000 to the New Hampshire Sweepstakes Commission in 1965, but did not reimburse the Commission for the approximately $30,000 it had paid for the purchase of the tax stamps in 1964 and 1965.[70]

New York followed with a State lottery in 1967, but once again revenues fell far short of the expectations of legislative proponents.

The revitalization of the modern State lottery came about in 1971 with the introduction of New Jersey's computer-based 50¢ weekly game. New Jersey also increased the size of the prize pool to 45 percent of the gross handle. New York and New Hampshire had allocated only 30 percent and 35 percent, respectively, to be returned to the public in the form of prizes. Frequent drawings, cheaper tickets, convenience of sale, and a weekly prize of $50,000 all served to make New Jersey's innovative lottery more successful than its predecessors; it grossed $142.5 million in its first year. The New Jersey model was adopted by New York and New Hampshire and by each of the other 10 States that presently conduct lotteries.

Despite the relative success of the State lotteries after the introduction of the 50¢ weekly game, their directors unanimously opposed the restrictions placed on their operations by the 19th century antilottery statutes. They maintained in hearings conducted by the National Gambling Commission that the antilottery statutes did not recognize the right of the States to conduct their lawful businesses and to raise revenue as they saw fit without undue Federal regulation or interference. They also contended that it was the intent of the antilottery statutes to prohibit privately owned and operated lotteries authorized by the States—not those lotteries operated by the States themselves. It was important that each State have the right to develop its own policy toward gambling and to employ its own methods to raise revenue without interference from the Federal Government.[71]

In September 1974, alleging that several States had rejected lotteries and that it was the responsibility of the U.S. Justice Department to enforce the policies enacted by Congress,[72] the Attorney General warned that unless remedial legislation were enacted by Congress within 90 days, it would be necessary to proceed against the offending States under 18 U.S.C. 1964.[73] This civil remedy provides for a method of permanently enjoining a "pattern of racketeering" involving violations of certain criminal statutes. (In May 1976, the Department of Justice moved under the same statute to enjoin the New Hampshire Sweepstakes Commission from engaging in alleged interstate mailings of lottery tickets. That was the first time this statute has been used against a legal gambling entity.) On the last day of the 93d Congress, legislation was passed permitting the transportation, mailing, and broadcasting of advertising, information, and materials concerning a lottery conducted by a State on an intrastate basis. In addition, 18 U.S.C. 1307 permits the broadcasting of lottery information by broadcasting stations licensed to a location in an adjacent lottery State, and exempts equipment and tickets used within a State in a State-conducted lottery from the ban on the interstate transportation of wagering paraphernalia.[74]

THE INDUSTRY TODAY

Organizational Structure

All 13 State lotteries are operated and controlled by State governments. Though there are variations, the basic model for the operating structure of a State lottery consists of a commission appointed by the Governor, that establishes the rules and regulations of the lottery, determines the types of games to be conducted and performs other advisory functions including the appointment of the executive director of the lottery. The executive director is responsible for the day-to-day functions and operations of the lottery and is assisted by deputy directors in charge of finance, marketing, computer operations, security, and other divisions of the lottery. Designated banks are used as depositories for lottery funds and distribute and collect lottery revenue and unsold tickets from their assigned sales agents each week. Lottery tickets are sold at retail outlets such as supermarkets, drugstores, and liquor stores. Forms indicating the disposition of each ticket are filled out by the sales agents and bank officers; they are collected each week from the banks by State employees and returned to the central lottery office with lottery receipts and unsold tickets. All unsold tickets in a given lottery pool must be in the possession of the State prior to the drawing of winning numbers for that particular lottery. If a sales agent is delinquent in settling with his assigned bank or indicates a lack of security, the bank will not issue him the next allotment of tickets; it then reports the agent to the director of the lottery.

Lottery Revenue and Distribution[75]

The sale of State lottery tickets has become almost a billion-dollar industry. In calendar year 1975, gross lottery handle amounted to approximately $992 million, an increase of 45 percent over the $681 million wagered in 1974 [76] (see table 5-49). It appears that the introduction of instant lottery games, daily numbers games, and the use of broadcast advertising has had a decidedly positive effect on State lottery sales, which had been steady for the previous 2 years. Whether the lottery-type games have reached their sales peak cannot be ascertained at this time, but it is probable that the expanded use of instant and daily lotteries will perpetuate the upward surge of State lottery sales.

Each lottery State—with the exception of New Hampshire and New York—allocates approximately 45 percent of gross lottery revenue to winning ticket holders: New Hampshire allocates 50 percent, and New York a maximum of 40 percent. The 45-percent figure can be traced to the original New Jersey lottery, which allocated 45 percent to prize-winners—a percentage roughly equivalent to the payoffs in the illegal numbers game. Actual payoffs by the State lotteries vary by game and usually average two or three percentage points under the amount allocated due to some unclaimed prizes (see table 5-50). The percentage of gross lottery receipts allocated for the payment of prizes is the lowest of any form of commercial gambling conducted in the United States and smaller than many of the prize pools offered in the major European lotteries (see tables 5-50 and 5-51).

Although the minimum percentage of gross revenue to be returned to the State differs from State to State, most State lotteries contribute approximately 40 percent of gross sales to the State's general fund or to a specifically earmarked program. Net revenue to the State accounts for 1 percent to 2 percent of those State's annual tax collections, and these monies have supported many worthwhile purposes (see table 5-52).

The position of the State lotteries is that their profits do not constitute a form of taxation per se; rather, they should be characterized as returns from competition in the open marketplace for the leisuretime dollar. The purchase of their product is voluntary, and their profits accrue to the people of those States. In this context, it is noted that the States do engage in other forms of commercial enterprise, such as public transportation systems, tourist agencies, and retail liquor outlets. In any event, the distinction between "profits" and "taxes" appears to be academic; lotteries are relied upon by the States to generate revenues which would otherwise have to be produced by taxation, and the revenue they contribute to the States is indistinguishable from the monies raised by taxes. The State, by paying out a higher percentage of gross receipts to prizewinners, could continue to earn normal profits on invested capital with a smaller transfer of income from households to government through the lotteries.

TABLE 5-49.—STATE LOTTERY REVENUES AND DISTRIBUTION (figures in millions of dollars, years are fiscal years)

State	Distribution	1976	1975	1974	1973	1972	1971
CONNECTICUT	Gross	$71.04	$30.89	$30.75	$34.71	$17.29*	
July-June	Prizes	32.82	13.89	13.84	15.62	7.78	
Feb 1972	O. E.	8.45	2.21	2.21	2.59	1.59	
	Net	29.77	12.79	13.79	13.91	6.56	
DELAWARE	Gross	7.61					
July-June	Prizes	3.77					
Nov 1975	O. E.						
	Net						
ILLINOIS	Gross	163.91	190.15				
July 1974	Prizes	73.76	85.53				
	O. E.	16.69	18.07				
	Net	73.46	87.28				
MAINE	Gross	8.26	5.20	0.32			
July-June	Prizes	3.70	2.20	—			
June 1974	O. E	1.97	1.11	0.22			
	Net	2.58	1.20	0.08			
MARYLAND	Gross	59.77	38.67	35.16	6.30*		
July-June	Prizes	25.90	17.09	14.76	2.13		
May 1973	O. E.	7.97	4.49	3.64	2.04		
	Net	25.90	17.09	14.76	2.13		
MASSACHUSETTS	Gross	103.25	94.72	84.76	75.94	56.39*	
July-June	Prizes	47.89	42.62	42.60	34.10	25.50	
April 1972	O. E.	15.49	13.58	11.40	9.20	6.70	
	Net	39.87	38.52	35.20	32.60	24.20	
MICHIGAN**	Gross	227.24	135.82	137.38	83.07*		
July-June	Prizes	102.26	61.12	61.82	37.38		
Aug. 1972	O. E.	24.21	14.26	14.42	8.72		
	Net	100.77	60.44	61.14	36.97		
NEW HAMPSHIRE	Gross	14.13	11.12	5.67	6.85	7.70	4.28
July-June	Prizes	6.69	4.97	2.43	3.97	3.36	1.79
March 1964	O. E.	2.06	1.92	1.00	1.19	1.64	0.62
	Net	5.74	4.20	2.24	2.69	2.70	1.87
NEW JERSEY**	Gross		76.82	89.22	112.69	137.54	72.72
July-June	Prizes		36.72	40.24	50.71	61.89	32.72
Jan 1971	O.E.						
	Net				56.69	69.00	33.36
NEW YORK	Gross		91.69	113.55	130.00	77.04	70.08
July-June	Prizes		36.68	45.42	52.00	30.81	27.64
June 1967	O. E.		13.75	17.03	19.50	11.56	10.51
	Net		41.26	51.10	58.50	34.67	31.93
OHIO	Gross	120.60	110.92	38.02*			
July-June	Prizes	54.27	49.92	17.11			
Aug. 1974	O. E.	18.09	15.97	5.77			
	Net	48.24	48.17	11.41			
PENNSYLVANIA	Gross	136.91	118.24	132.82	126.21	53.63*	
July-June	Prizes	60.96	51.36	55.73	54.40	23.97	
March 1972	O. E.	19.31	16.58	15.88	14.28	6.58	
	Net	56.64	50.29	61.22	57.52	23.07	
RHODE ISLAND	Gross	14.07	15.05	1.96*			
July-June	Prizes	6.44	7.53	0.88			
May 1974	O. E.	2.73	2.52	0.43			
	Net	4.90	5.00	0.66			

*Indicates less than full year in operation.
**Figures for Michigan and New Jersey are estimates.

TABLE 5-50 —STATE LOTTERY GAMES, ALLOCATION OF REVENUE

State		Prizes	O. E.	Net	Beneficiary
Connecticut	Weekly	45% min.	15%	40%	General Fund
	Overlay	N/A	N/A	N/A	
	Instant	45%	15%	40%	
	Numbers	N/A	N/A	N/A	
Delaware	Weekly	45% min.	15%	30%	General Fund
	Overlay	N/A	N/A	N/A	
	Instant	49.5-53.6%	11.5-15.6%	30%	
	Numbers	N/A	N/A	N/A	
Illinois	Weekly	45%	10%	45%	General Fund
	Overlay	45%	10.1%	44.9%	
	Instant	45%	10.5%	44.5%	
	Numbers	N/A	N/A	N/A	
Maine	Weekly	45% min.	23%	32%	General Fund
	Overlay	N/A	N/A	N/A	
	Instant	45% min.	23.8%	30.2%	
	Numbers	N/A	N/A	N/A	
Maryland	Weekly	42.5%	15%	42.5%	General Fund
	Overlay	N/A	N/A	N/A	
	Instant	45%	10%	45%	
	Numbers*	46%*	10%	44%*	
Massachusetts	Weekly	45% min.	15% max.	40%	Aid to cities and towns
	Overlay	45% min.	15% max.	40%	
	Instant	47-50%	15% max.	40%	
	Numbers	60%	15% max.	25%	
Michigan**	Weekly	45%			General Fund
	Overlay	45%			
	Instant	45%			
	Numbers	N/A	N/A	N/A	
New Hampshire	Weekly	50%			Aid to local education
	Overlay	N/A	N/A	N/A	
	Instant	50%			
	Numbers	N/A	N/A	N/A	
New Jersey		(Information not available.)			Aid to education
New York	Weekly	40% max.	15%	45% min.	Aid to education
	Overlay	40%	15%	45%	
	Instant	N/A	N/A	N/A	
	Numbers	N/A	N/A	N/A	
Ohio	Weekly	45%	15%	40%	General Fund
	Overlay	45%	15%	40%	
	Instant	45%	15%	40%	
	Numbers	N/A	N/A	N/A	
Pennsylvania	Weekly	45%	14%	41%	Property tax relief and public transportation for elderly
	Overlay	45%	14%	41%	
	Instant	45%	14%	41%	
	Numbers	N/A	N/A	N/A	
Rhode Island	Weekly	45.1%	18.5%	36.4%	General Fund
	Overlay	46.1%	24.1%	29.8%	
	Instant	45.3%	9.7%	45%	
	Numbers	48.4%	23.3%	28.3%	

*Maryland pays out $500 to every winner in its daily game, thus there is no set percentage for prizes or net to State. Figures represented here are the average totals from its first few weeks in operation

**Michigan's allocation of revenue for net to State and operating expenses for all their games are 44% and 11% respectively. No figures were furnished by Michigan for such allocations for the individual games.

TABLE 5-51.—MAJOR EUROPEAN LOTTERIES, ALLOCATION OF REVENUES

Lottery	Operator	Program	Government	Prizes	Agents	Advertising & O. E.	Beneficiaries
NATIONAL BRUSSELS (Bel.)	State	Aid for developing countries, charities	0%	59%	8%	1% 3%	foreign aid 26% charities 5%
ROYAL DAN. KLASSEN-LOTTERIE (Den.)	State	Government, 2 smaller lotteries —farmers —craftsmen	7.1% 15% tax on winnings	67.70%	13%	0% 2.5%	N/A
NATIONAL HELSINKI (Fin.)	Agency connected with Helsingfors ak Fiebank	Education 70% Nat. Opera 17% Fin. Theatre 13%	0% winners taxed	59.5%	4.5%	1% 1.5%	34.5%
NATIONAL PARIS (Fr.)	State	Government	22-25%	53-61%	12-15%	15% 3%	N/A
IRISH SWEEPSTAKES	Agency on behalf of State	Hospitals, government	6.25%	37.5%	16.67%	22.5% 1.25%	15.25% hospitals only
ITALY National	Concessionnaire on behalf of State	Charities, subject to change	nil	35%	13%	17% 7-11%	35%
ITALY National Lotto	State	Government	41%	47%	1%	12% 0%	N/A
NETH. National Lotto	Agency on behalf of State	Chosen by government	0% 25% tax on winnings over 1,000 guilders	42.3%	16.7%	5.1% 1%	36.9%
PORTUGAL National Lisbon	Nonprofit organization on behalf of State	Government 67% Charities 33%	20.5%	54%	12.7% + surcharge	2.5% 1.4%	10.3% charities only
SPAIN National Madrid	State	Government Red Cross	26%	70%	2-5%	1% 0.06%	Red Cross receives 26% of 1 lottery annually
SWEDEN National Stockholm	State	Government	Balance after prizes and expenses are paid—approx. 45%	49%	3%	3% 0.2%	N/A
SWITZ. Nat. Lotto Zurich	State	Chosen by Canton govts.	2% 30% tax on winnings over 50 SF	47.2%	9.7%	22.4% 7%	18.9%
SWITZ. Nat. Lotto Basel	Private, subject to oversight by Cantons	Chosen by 4 partners, subject to change	2% 30% tax on winnings over 50 SF	50%	10%	8-10% 5-6%	30%
W. GER. Nordrhein-Westfallen "Lotto"	Private, regulated by State	Causes chosen by govt.	16.67%	50%	7.5-9%	5.5% includes price of surcharge	23.5%

Source: Littlewoods Pools, Liverpool, England.

TABLE 5-52.—STATE LOTTERIES AS A SOURCE* OF REVENUE (figures in millions of dollars)

State		1975	1974	1973
Connecticut	State tax collections	$1,059	$1,093	$1,143
	Lottery net to State	12.79	13.79	13.91
	Percentage	1.21%	1.26%	1.22%
Delaware	Delaware lottery has not completed a full fiscal year.			
Illinois	State tax collections	4,410	Data not available	
	Lottery net to State	87.28		
	Percentage	1.98%		
Maine	State tax collections	369	Data not available	
	Lottery net to State	5.2		
	Percentage	1.41%		
Maryland	State tax collection	1,731	1,578	
	Lottery net to State	17.09	14.76	
	Percentage	0.99%	0.94%	
Massachusetts	State tax collections	2,219	2,205	2,054
	Lottery net to State	38.52	35.2	32.6
	Percentage	1.74%	1.60%	1.59%
Michigan	State tax collections	Data not available		
	Lottery net to State			
	Percentage			
New Hampshire	State tax collections	172	165	156
	Lottery net to State	4.2	2.24	2.59
	Percentage	2.44%	1.36%	1.66%
New Jersey	State tax collections	2,101	2,056	1,919
	Lottery net to State	36.13	46.39	56.69
	Percentage	1.72%	2.26%	2.95%
New York	State tax collections	8,939	8,516	8,170
	Lottery net to State	41.26	51.1	58.5
	Percentage	0.46%	0.6%	0.72%
Ohio	State tax collections	3,039	Data not available	
	Lottery net to State	41.26		
	Percentage	1.59%		
Pennsylvania	State tax collections	4,733	4,609	4,367
	Lottery net to State	50.29	61.22	57.52
	Percentage	1.06%	1.33%	1.32%
Rhode Island	State tax collections	350	Data not available	
	Lottery net to State	5.0		
	Percentage	1.43%		

*State tax collection figures from "State Tax Collections in 1975," Bureau of the Census U S Department of Commerce

Operating expenses incurred by State lotteries account for approximately 10 to 15 percent of gross lottery revenue. This percentage includes the 5 to 8 percent paid by commissions to sales agents, and the usual 1 percent commission paid to banks used as depositories by the State lottery. Advertising expenditures account for 2.5 percent to 3 percent of lottery revenue, with the remaining revenue used to pay for lottery staff salaries, computer expenses, production costs, security, and other lottery expenses. Lottery commissions have contributed millions of dollars to State economies through payments to local businesses for services rendered, and have generated jobs for local citizens.

Since the introduction of lottery broadcast advertising in January 1975, advertising expenditures have risen slightly, but do not represent a higher proportion of lottery revenue due to the increased earnings of the lotteries in the past year.

Promotion and the Product

State governments conduct lotteries with the express purpose of raising revenue. Effective competition with illegal organized gambling has not been provided by the traditional forms of State-operated lotteries, although this is now being promoted through a daily numbers game in three of the lottery States. Thus, the principal function of a State lottery is to realize its maximum revenue potential, consistent with maintaining security and control, by creating and expanding its market of ticket purchasers while providing entertainment desired by the citizens of that State. Publicly financed State lottery advertisements are viewed by their critics as undignified and at variance with the proper aims of government, but advertising is seen by the lotteries as vital to increase sales levels and thereby to provide more revenue to the State.

Through the use of advertising, the public can be informed as to the lottery's price, prize structure, availability, and other features necessary to the successful promotion of the games. Most lottery advertisements accentuate the riches awaiting the ticket purchaser and mention the odds against collecting the higher prizes, but the lotteries generally fail to list the prize structure on the individual tickets. Thirteen States have become aggressive entrepreneurs of lotteries that, by their inherently passive nature, need to be constantly redesigned and promoted to catch and retain the public's attention in the competitive marketplace for disposable income. State lottery tickets are in the unique position of being the only consumer product that is widely advertised and backed by the prestige and integrity of State government.

Advertising expenditures by the lottery commissions average between 2.5 percent and 3 percent of gross lottery revenue, a relatively small figure compared to the size of advertising budgets in private industry. But whereas consumer products in the private sector must compete with similar rival goods and services for public consumption, State lotteries exist as monopolistic promoters of an activity that offers an average profit of 40 percent. In 1975, the 13 State lotteries spent approximately $20 million to promote their various games. Since the signing into law of 18 U.S.C. 1307 in January 1975, prime-time television commercials on local stations have become a major avenue for the dissemination of lottery information. Several States—Connecticut, Illinois, Maryland, Massachusetts, Ohio, and Rhode Island—now conduct their weekly drawings on regularly scheduled television programs patterned after television game shows. State lottery advertisements also appear regularly in newspapers and on the major AM radio stations located in the lottery States.

The State lotteries believe that the introduction of broadcast advertising in 1975 has allowed them to communicate new lottery information and promotions more clearly and more quickly, and to advertise in a manner that leaves a greater impression on a prospective ticket purchaser. It is difficult to determine the impact broadcast advertising has had on lottery sales, however, due to the introduction of the instant lottery game in 10 of the 13 lottery States at virtually the same time.

The simplicity, availability, and turnover of the instant lottery has made it the most successful game yet marketed by the State lotteries (see table 5-53). For the price of $1, the player participates in the game by scratching off the covered portions of the ticket to expose a set of printed letters or numbers. Depending on the rules of the particular game and the numbers or letters exposed, the player can become a prizewinner without waiting for the results of a drawing. Most of the instant games also offer a continuity factor by enabling the purchaser to win a prize if he is able to collect the necessary letters or numbers contained on the ticket stub to spell a specified word or add up to a specified sum. The ease of participation and the greater ticket sales generated by the continuity factor and instant results have all contributed to the tremendous turnover the instant game has enjoyed since its introduction in Massachusetts in 1974.

The increased availability of the instant game in 1975 pushed annual lottery sales up by approximately 45 percent. As much as 80 percent of lottery sales in several States were for instant game tickets during their periods of promotion. The lotteries advertise that as many as one ticket in every five enables the purchaser to claim a prize; the vast majority of these prizes are awards of free tickets or small cash prizes. As in the weekly game, most States have allocated a minimum of 45 percent of the gross to be used for the payment of prizes. However, the chances of winning one of the top prizes available in the "stub" games are remote. The "stub" games have also been used in association with weekly and overlay lotteries as well. This extra chance to win a prize usually has resulted in increased ticket sales during their periods of promotion.

Despite a slump in sales during 1975, the weekly lottery remains the cornerstone of each of the 13 State lotteries. While the mechanics of the game have changed little since its introduction in 1971, prize structures for the game continue to change in response to the desires of the public. Although the instant lotteries offer the largest grand prizes, the weekly game still offers a prize structure that attracts patrons who appreciate its effortlessness of play and who have little interest in the participatory aspect of gambling.

Weekly tickets are all prenumbered, and there are generally a number of ways a ticket purchaser can claim a prize from the same ticket. The earlier weekly lotteries featured a five-digit or six-digit numbered ticket with which the purchaser could claim a prize if the number on his ticket matched the exact number drawn or portions thereof. Four-digit and five-digit matches would enable the purchaser to claim a prize in the $200 to $5.000 range, and a six-digit match entitled the person to collect the weekly lottery grand prize. The single number match, however, has been replaced in favor of a method of multiple number matches of two- or three-digit numbers. This method also enables the purchaser to collect the weekly grand prize if the two three-digit numbers drawn match those printed on his ticket, and insures a greater number of winners who need only to match two-digit or three-digit numbers in order to claim a prize. It appears that the lotteries have decided that a greater number of winners and a greater number of smaller prizes, together with a large grand prize, are more in line with the desires of the ticket-purchasing public than were the lotteries that

TABLE 5-53 —INSTANT LOTTERY SALES figures in millions of dollars)

State	Gross	50¢ weekly game	$1 00 instant game	Percentage of gross sales from instant games	
				For period indicated	For year
CONNECTICUT					
09/18/75-11/20/75	$21.30	$5.60	$15.70	73.7	
02/19/76-05/06/76	31 05	6 80	24.25	78.1	
FY 1976 total	71.04	29.49	41.55		58.5
DELAWARE					
02/19/76-04/01/76	3.82	0 48	3.34	87 4	
FY 1976	7.61	2.88	4.73		62.2
ILLINOIS					
10/21/75-02/09/76	93.50	38.50	55.00	58.8	
FY 1976	163.91	65.27	56.61		34.5
MAINE					
FY 1976	8.26	2.73	5 49		66.5
MARYLAND					
02/10/76-03/31/76	26.23	6.23	20.00	76.2	
FY 1976	59.77	39.77	20.00		33.5
MASSACHUSETTS					
06/06/74-08/08/74	27.50	10.47	17.03	61.9	
02/04/75-07/24/75	45.73	22.59	23.14	50.6	
08/15/75-12/12/75	30.90	13.16	17.74	57.4	
FY 1976	103.25	46.36	47.36		45.9
MICHIGAN				Data not available	
FY 1976	227.24	65.46	154.66		
NEW HAMPSHIRE					
01/29/75-07/01/75	6.65	1.78	4.86	73.1	
07/01/75-02/01/76	7.21	2.75	4.45	61.7	
02/01/76-03/30/76	2.51	0.49	2.02	80.5	
03/30/76-04/30/76	2.40	0.40	2.00	83.5	
FY 1976	14.13	4.41	9.73		68.8
NEW JERSEY					
06/16/75-07/01/75	49.62	8.73	29.05	58.5	
11/17/75-03/31/75	86.25	23.49	37.49	43.5	
(FY 1976 figures not available.)					
NEW YORK					
(Began operation in September 1976; figures are not yet available.)					
OHIO					
FY 1976	120.60	66.78	14 47		12.0
PENNSYLVANIA					
06/04/75-09/24/75	51.33	15.83	35.50	69.2	
FY 1976	136.91	34.24	67.86		50.0
RHODE ISLAND					
FY 1976	14.07	6 99	1 75		12.4

NOTES

The percentages contained herein reflect only the dollar volume generated by the sale of instant lottery tickets and do not reflect the actual percentage of instant tickets sold within a lottery State in fiscal year 1976 As the instant tickets are twice as expensive as the weekly tickets, their percentage of the total sales in a State lottery would approximate 66 percent if a similar number of weekly 50 cent tickets were sold.

All comparative sales figures for those periods when instant tickets were promoted by a State lottery were received by the National Gambling Commission prior to July 1, 1976, and do not reflect every promotion of instant tickets by each of the lottery States. Their inclusion in the table above is to demonstrate their relative popularity in relation to the weekly games during their irregular periods of promotion A number of States—Ohio, Rhode Island, and others—have rather small percentages of gross sales derived from the sale of instant tickets because the promotion of instant lottery tickets by their lottery commissions began only recently.

offered a number of medium-range prizes for four-digit and five-digit matches.

When the lottery has sold a sufficient number of tickets, the State conducts a grand-prize drawing which, depending on the size of the lottery, may range from $100,000 to $1 million. The larger prizes are paid off in weekly, monthly, or annual installments through a lottery-purchased annuity plus the cost of the original installment. A $1 million prize paid out over a period of 20 years costs the State approximately $550,000, depending upon the market price set by the seller of the annuity.

"Overlay" lotteries, which are waning in popularity as more States introduce instant lottery games, feature $1 tickets and prize structures which often offer automobiles, vacations, and other goods in addition to cash prizes, and at one time were used in many of the lottery States as a supplement to the regular weekly lottery. Periods of promotion run from 6 weeks in some States to 6 months in other States. The games commonly feature a series of numbers printed on the ticket which, if matched at a weekly drawing, enable the purchaser to claim a specified prize according to the number of digits in the matching number. In addition, the overlay game tickets include a stub upon which a grand-prize number is printed. Players are encouraged to buy tickets during each week of the promotion to enable them to win one of the weekly prizes, and to save each of the stub portions to have a better chance of winning the grand-prize drawing conducted at the end of the promotion. Although the State lotteries want to provide variety in their overall marketing plans, it appears that the lotteries have begun to phase out this type of lottery in order that the public not become confused by the simultaneous marketing of three or four different lotteries.

Daily numbers games are presently conducted in New Jersey, Rhode Island, Massachusetts, and Maryland and are planned in Connecticut, Delaware, Michigan, New Hampshire, and Pennsylvania. Unlike the weekly, instant, and overlay lotteries, which are designed and promoted with the express purpose of raising revenue, the daily numbers games are promoted both to raise revenue and to combat the established illegal numbers games in those States. The legal numbers games are similar to their illegal counterpart in that the player may select his own three-digit or four-digit number and may also have a runner or courier place his daily bet for him. As far as is practicable, the States have tried to pattern the legal numbers games after the attractive features of the illegal game in an attempt to lure veteran numbers players to the former. Moreover, the new games offer certain advantages; in addition to the certainty that the player will be paid if he wins, in Massachusetts and New Jersey there is the possibility of very large payoffs if the winning number is not selected by many participants in that particular day's parimutuel pool.

Because of the relatively short time the legal numbers games have been in operation, accurate evaluations of the game's market potential cannot be made with any reliability: It is possible, however, that the promotion of the game could widen the appeal of numbers play to suburban areas and increase participation in both the legal and illegal games.

While it may be too early to make any judgments concerning the crime-fighting potential of the legal numbers games, reports thus far from the three States where the legal game is in operation have been encouraging. The Rhode Island lottery has reported that the illegal numbers operations in that State have been forced to raise their payoff rates and have attempted to persuade vendors of the legal numbers game to assist them in the operation of the illegal game. In addition, it appears that many of the illegal numbers operations in Rhode Island regularly use the legal number for their own purposes. Quite the opposite appears to be happening in Massachusetts: It has been reported that illegal numbers operations will not use the legal number because they cannot compete with the State's higher payoffs available under the parimutuel style of payoffs, and because prize payments are allocated at 60 percent of gross revenues. The following table shows the key features of the three legal numbers games:

TABLE 5-54.—DAILY NUMBERS GAMES

State	Prize payment allocation	Method of payoffs
Massachusetts	60%	parimutuel
New Jersey	50%	parimutuel
Rhode Island	50%	fixed odds

Security and Drawings

Computers maintain distribution, sale, and payment records of tickets; the amounts placed into special lottery accounts at each designated bank; and the commissions paid to the banks and sales agents. An algorithm in the computer develops a unique method for each State to determine the lottery number on each ticket from its serial number.

When a purchaser claims a prize, numerous checks are made on the validity of the claim. The computer checks where the ticket was purchased, to determine if it was stolen; the serial number and lottery number are compared with the algorithm to prove the authenticity of the claim. If there is a mismatch, no payment is made and the claim is investigated. The use of computers has made it virtually impossible to forge, steal, or duplicate lottery tickets successfully. Unlike the lotteries of the 19th century, the modern State lotteries have attained a reputation for honesty that, with a few exceptions, may account for a large measure of their popularity among the citizens in those States where they are located.

Lottery drawings are conducted in public (in many

States on weekly television programs) by means of open mechanical devices that insure randomness of selection. Results of the daily numbers drawings games are shown in Massachusetts and Rhode Island during 11 p.m. TV news programs. (The results of previously run horseraces are incorporated into the drawing procedure by each of the States to retain their allowable exemption from the imposition of the Federal wagering excise tax on their gross receipts.)

The above notwithstanding, difficulties that have hurt the public image of lotteries have been encountered in several States. The Delaware lottery was plagued from the beginning by disappointing sales and political infighting, and was shut down shortly after its introduction; after many months, the lottery resumed operation with a more streamlined game. In Ohio, charges of misuse of lottery personnel by the deputy director, who was involved in a campaign for public office, were given considerable attention by the press, and the position of director became vacant twice within a 2-week period. However, neither of these episodes can compare in impact with the decision by the Governor of New York in October 1975 to suspend that State's lottery after a series of critical articles were published in the New York Daily News, the State's largest newspaper.

The reason for the Governor's action was the disclosure that a computer error had resulted in the printing of duplicate and triplicate tickets for the same drawing. This drawing had been intended to award money that had been accumulated by the lottery during a period in which, in 17 of the past 38 weekly drawings, the winning number had corresponded with an unsold ticket. Although technically without the power to stop the lottery, the Governor's order, along with the comptroller's decision not to approve the lottery payroll, effectively did so.

While it was never determined whether the computer mistake that brought down the lottery was the result of human error or an attempt at sabotage due to dissension within the lottery staff, a private consulting firm retained by the Governor to audit the lottery operations did report that computer control procedures were virtually nonexistent, and that overall security measures were dangerously lax.[77] The auditors concluded that these and other problems were "symptomatic of a poorly designed, implemented, controlled, and managed lottery," and recommended a "complete overhaul" before operations were resumed.[78] Concerning the drawing of unsold tickets, the report observed that weekly lotteries in most States produced more tickets than were sold; however, the excessive degree to which this had occurred in New York indicated a "failure to assess these probabilities and to set the policy beforehand needed to cope with them."[79] (The New York Lottery returned to operation in August 1976, and began its first instant lottery shortly thereafter.)

In September 1976, the Delaware State Lottery introduced sports card betting as a regular feature. This game used the results of National Football League contests to determine the winners, who selected the outcome of several games and received prizes from a parimutuel pool. The Department of Justice has not acted against Delaware under Federal law. However, the NFL sought to enjoin Delaware from using the results of its games to determine the outcome of these pools, claiming that gambling based on the outcome of football contests would increase the risk of fixed games, would change the character of the fans, and would result in an unjust enrichment of the State of Delaware, since the State would derive revenue from commercially created events without compensation. Delaware maintained that these contests were in the public domain, and that to deny the State the right to operate sports cards would guarantee to organized crime a continued monopoly on this type of wagering. These arguments can only be resolved through litigation.[80]

In addition to the State lotteries, a private lottery is presently operating in Omaha, Nebraska. Designed and implemented along the lines of the computerized State lotteries, this game is being conducted to raise revenues for civic purposes. Originally it was controlled by the City Betterment Corporation, which was founded by a group of Omaha businessmen for the purpose of revitalizing the downtown area. However, an injunction against the game was obtained by the county prosecutor, because the CBC had been established for the express purpose of running the lottery—a violation of the applicable Nebraska statute. Subsequently, a different civic organization, which had been in existence for many years, took over the operation of the lottery; however, further legal challenges are expected at the county and State levels.

GAMBLING SURVEY RESULTS

The National Gambling Commission survey of American gambling habits and attitudes has shown that almost one-quarter of the adult population in the United States bought lottery tickets in 1974 (table 5-55). Lotteries had a broader participation rate than any other form of commercial gambling, drawing players from all demographic groups. As with many other forms of gambling, lottery participation increased as income increased and was highest among whites and suburbanites. As with bingo, participation was greatest among the middle-aged. There was little variation on the basis of education

Following are additional highlights of the survey findings:

- Lotteries and Family Income (table 5-56). Almost half the residents of lottery States bought lottery tickets in 1974, spending an average of $25 a year each. The lottery is one of the more regressive forms of gambling —that is, people in the low income categories spend proportionately more on it than those in the higher income brackets. Only numbers and sports cards are more regressive than the lottery. Bingo is about the same.

The lottery's average takeout rate of 55 percent is higher than that of any other form of commercial gambling. Bingo has the second highest takeout rate (33 percent), followed by off-track betting (21 percent), track betting (16.6 percent), and casinos (15 percent). Among the illegal games, only sports cards have a higher takeout rate than the lottery.

- Lotteries and Other Forms of Gambling (table 5-57). Lottery players engage in other gambling activities more than the general population and, in particular, are more likely to gamble illegally than are the players of other legal games. They play numbers at nearly twice the rate of other bettors. In addition, there is evidence (discussed in greater detail in chapter 4 of this Report) that the introduction of a State lottery tends to increase participation in numbers games. Since the two forms of gambling are so much alike, it is possible that publicity generated by the lottery encourages numbers playing as well.
- Reasons for Playing (table 5-58). Unlike other forms of gambling, the chance to make money was an important factor in motivating people to buy lottery tickets. With all other forms of legal gambling, money considerations were clearly subordinate to an expressed interest in the activity itself. The principal reason cited for not buying lottery tickets was lack of interest rather than reluctance to spend or lose money. Very few people stated that they did not buy lottery tickets for moral or legal reasons, or because of adverse social consequences.
- Attitudes Toward Legalization (table 5-59). More than three-quarters of those living in States with lotteries favored legalization, compared to only about half the population in States without lotteries. Sixty-two percent of those living in States without lotteries said they would not buy tickets if the lottery were legalized, indicating that among the lottery's supporters are a number of people who would not patronize it. Residents of the northeastern lottery States overwhelmingly supported the lottery. Opposition was strongest among older people, residents of southern States, and those earning under $5,000 and having less than a high school education.
- National and Local Lotteries (table 5-60). Most people preferred the current lottery model—State-operated

TABLE 5-55.—DEMOGRAPHIC CHARACTERISTICS OF LOTTERY PLAYERS

	Percent who bought lottery tickets in 1974
Total Sample	24
Sex	
Male	29
Female	20
Race	
White	25
Nonwhite	19
Region	
Northeast	55
North Central	32
South	6
West	3
Age	
18-24 years	17
25-44 years	30
45-64 years	25
65 and over	10
Income	
Under $5,000	10
$5,000-$10,000	15
$10,000-$15,000	24
$15,000 and over	33
Education	
Less than high school	18
High school	26
Some college	26
College graduate	31
Distance from 25 largest cities	
24 miles or less (urban)	28
25-49 miles (suburban)	39
50 miles or more (nonurban)	19

TABLE 5-56.—LOTTERY PARTICIPATION AND FAMILY INCOME

	Family income						
States with legal lotteries	Under $5,000	$5,000-10,000	$10,000-15,000	$15,000-20,000	$20,000-30,000	Over $30,000	Total
Percent who bet	30.6	45.5	52.5	60.0	57.4	50.6	47.8
Average annual bet per bettor	$24	$37	$32	$19	$25	$17	$26
Average annual bet per capita	$7	$17	$17	$11	$14	$9	$13
Average annual takeout per capita (takeout rate 55%)	$4.12	$9.30	$9.26	$6.13	$7.83	$4.80	$6.99
Percent of income:							
Bet per capita	0.30	0.23	0.13	0.06	0.06	0.02	0.08
Taken out per capita	0.16	0.12	0.07	0.04	0.03	0.01	0.05

and regulated. More than 60 percent of those interviewed stated their opposition both to a national lottery and to local lotteries. In States without lotteries, however, most people who said they would favor legislation of a State lottery also said they would support a national lottery, whereas residents of lottery States apparently feel that one lottery is sufficient.

TABLE 5-57.—LOTTERY PARTICIPATION AND OTHER FORMS OF GAMBLING

	Percent		
	Total sample	All 1974 bettors	1974 lottery players
Type of Legal Gambling Played			
Sports with friends	28	46	43
Bingo	19	31	35
Horseraces	15	23	25
Casinos	10	16	11
Dograces	4	6	5
Type of Illegal Gambling Played			
Any illegal game	11	18	23
Sports bets	4	6	9
Numbers	3	5	8
Horse bets	2	4	5

TABLE 5-58.—REASONS FOR BUYING OR NOT BUYING LOTTERY TICKETS

	Percent		
	Total sample	States where legal	States where not legal
Reasons for Buying Tickets			
Interest: good time, excitement, challenge	82	82	83
Money: make money, get rich	77	79	62
Reasons for Not Buying Tickets			
Lack of interest: don't know or think about it, waste of time	68	79	64
Money: don't want to lose money, waste of money	46	61	42
Moral reasons	9	9	9
Legal reasons	16	1	20
Social reasons	2	3	2
Availability	3	——	——

NOTE Respondents chose one, two, or three reasons from a list of several reasons provided.

TABLE 5-59.—ATTITUDES TOWARD LEGALIZATION OF LOTTERIES

	Percent			
	Positive to legalization	Negative to legalization	Unsure	No answer
Total Sample	61	29	6	4
Legal Status				
States with lotteries	77	14	7	2
States without lotteries	49	41	5	5
Region				
Northeast	84	8	7	1
North Central	68	22	8	2
South	37	49	6	8
West	62	33	3	2
Income				
Under $5,000	38	46	12	4
$5,000-$10,000	53	33	8	6
$10,000-$15,000	66	25	5	4
$15,000 and over	71	24	4	1
Age				
18-24 years	64	28	4	4
25-44 years	69	23	6	2
45-64 years	61	30	6	3
65 and over	34	50	10	6
Education				
Less than high school	45	38	10	7
High school graduate	66	27	4	3
Some college	73	22	5	0
College degree	72	22	4	2

TABLE 5-60.—ATTITUDES TOWARD NATIONAL AND LOCAL LOTTERIES

	Percent		
	Total sample	States with lotteries	States without lotteries
National Lottery			
Favors instead of State lottery	1	1	2
Favors in addition to State lottery	22	19	37
Opposes national lottery	62	67	35
Don't know/don't care	5	5	5
No answer	10	8	21
Local Lottery			
Favors instead of State lottery	4	4	3
Favors in addition to State lottery	15	14	19
Opposes local lotteries	67	69	54
Don't know/don't care	5	6	2
No answer	9	7	22

CONCLUSIONS AND RECOMMENDATIONS

In chapters 1 and 2, the Commission outlined its position on what the basic legal framework governing the operating of lotteries should be. In keeping with the national policy, **the Federal Government should limit itself to preventing the channels of interstate commerce from being used to interfere with State policies concerning lotteries.** If lotteries of any nature—whether State-conducted, commercial, or played for civic or charitable causes—are authorized within a given State, there is no rational justification for Federal denial of the use of mailing or broadcasting facilities to disseminate materials or information about such a lottery within that State.

If the purchase of the above-described lottery tickets is permissible within a sister State, the Federal Government should not prevent the channels of interstate commerce from being used to facilitate the traffic of lottery materials and information between those States. Accordingly, unless a State has specifically prohibited the sale or possession of certain lottery materials, the Federal Government should not prevent those materials from being mailed into that State from States where such materials are also legal; likewise, the broadcasting of information and advertising about such a lottery by licensees located within a State where the sale and possession of such lottery materials are legal should not be prevented.

At the same time, the Federal Government should stand ready to assist any State when the facilities of interstate commerce are being used to promote interference with that State's lottery policies. If the sale or possession of certain lottery materials has been prohibited by a State, the Federal Government should prevent those materials from being mailed or transported into that State from other States, regardless of the legality of those materials in the State of origin.

Similarly, the broadcasting of information about lotteries by licensees located within States where such lotteries are illegal should be forbidden. The statutory revisions proposed by the Commission in chapter 2 would effect these changes in present Federal policy.

The National Gambling Commission's survey data support the conclusion that the basic weekly lottery, as presently operated by all 13 of the lottery States, does not have a harmful impact on society. Almost half the residents of those States play the game at least occasionally, and the average amount wagered is less than $25 a year. A neglible percentage wager more than $100 a year. All segments of society participate in lotteries and very little time and emotional involvement are expended by the players.

Although it appears that access to a State lottery increases participation in illegal numbers games, the recent introduction of legal, daily numbers games in three of the lottery States may reverse that trend. At present, however, there are not enough data to determine whether these legal numbers games will be truly competitive with their illegal counterparts and whether they will discourage or encourage participation in the illegal games, although these States do contend that their games are making inroads into the illegal numbers play.

As a source of revenue to the States, lotteries are relatively inefficient compared to broad-based forms of taxation. They are also more regressive, as that term is defined in chapter 4, than most other forms of gambling since individuals in lower income brackets spend proportionally more money on them than do persons with higher incomes. No State now derives more than 3 percent of its total revenues from lotteries, and it would be futile for State policymakers to look to lotteries as a substitute for traditional forms of taxation. Although a well-managed State lottery can make a modest contribution to satisfying a State's overall revenue needs, **the Commission recommends that in this instance, the earmarking of lottery revenues for specific State programs be avoided because this practice tends to warp the budgetary process and to deprive State officials of the flexibility required to meet changing needs.**

In general, State lotteries have developed highly successful systems of internal security and are capable of protecting the integrity of the games from theft, forgery, and related conduct. Where problems have occurred—most notably in New York—they have been due to breakdowns in management, resulting in the failure to supervise adequately the control mechanisms necessary to insure trouble-free operation. **The Commission believes that State lotteries should be governed by statutes and regulations that provide those responsible for the proper management and control of the games with sufficient authority. The lottery agency should be headed by one individual who is directly responsible to the Governor.** He should have the power to hire civil service employees, to make contracts, and to promulgate the necessary regulations to insure efficiency and propriety. The daily administration of State lotteries must be taken out of the political arena.

The 19th century lotteries were guilty of the worst kinds of corruption, which the modern State lotteries have successfully avoided. There are, however, other aspects of their operation which have come to be associated in the 20th century with deviations from good government. We refer here to the creation of political patronage jobs at public expense, to the awarding of lucrative consulting and promotional contracts; and to the utilization of manipulative advertising practices. The problem is compounded when State lottery commissions, acting under the general authority to create a lottery, establish whole new varieties of gambling. A State legislature may not have contemplated instant games and sports pools when it enacted the original lottery legislation. For these reasons, **the Commission believes that State legislatures should periodically conduct comprehensive reviews of the status of gambling conducted by State lottery agencies, and should make sure that all of their practices are in line with the original legislative intention.**

If a State is going to operate a lottery it must go even further. By directly engaging in the promotion of a gambling business, a State takes on the responsibility of insuring that that enterprise is conducted in the best interests of the people. Indeed, the State as lottery entrepreneur has a special fiduciary responsibility to its citizens; since the presumption exists that the State is acting on behalf of the people, it has an obligation to inform them of its intention to profit from their participation. Accordingly, **the State must take care to inform the public fully as to the odds and character of the games being offered, and to avoid any misleading practices in its advertisements and promotional activities.** Although the basic weekly lottery is a relatively benign form of gambling, the States should conscientiously disseminate information about the probabilities involved in winning a prize, and should scrupulously limit their lottery advertisements to those informing the public of the existence and nature of the games offered, rather than actively encouraging them to participate.

In this context, the States have the responsibility to police themselves. Should they fail in this responsibility, Congress should consider giving the Federal Trade Commission the explicit authority to set and enforce compulsory guidelines.

The various promotional overlay games should be operated under the same standard. As long as these steps are taken, the States are capable of operating such lotteries without any avoidable adverse consequences to the community.

Where the Commission does find a serious potential for abuse in the present practices of the State lotteries is in their increasing reliance on the instant game as both a promotional vehicle and a revenue source. Since lotteries are basically regressive, and since the odds against the player's winning a prize are greater than in most other forms of gambling, any lottery which in fact encouraged frequent participation might prove to be inimical to the general welfare. **The nature of participation in instant games should be carefully monitored;** the lotteries have acknowledged that these games, when first introduced, fostered instances of long lines and repetitive ticket purchases. The Commission's social survey was conducted too early to provide data on instant games; however, **should evidence of excessive participation arise, the Commission believes that active State promotion of such lotteries would sacrifice the best interests of the public to the desire to obtain revenue. Since attempts to limit the frequency of player participation would appear to be unenforceable, the Commission would see no alternative to recommending that such games should not be conducted directly by the States.** If a State were to be unwilling to forgo the revenues from such lotteries, **it would be preferable to have them operated by private entrepreneurs who were as strictly licensed and controlled as are the casino operators in Nevada.** Then, at least, the participants would be fully aware that the games were designed only to make money, with the States imposing taxes and licensing fees to generate revenues.

If the States continue to move in the direction of legalized numbers gambling, then the Commission believes that they should forgo all revenue considerations for these games, and should concentrate on the law enforcement objective of eliminating their illegal competitors. To do otherwise would be to promote a regressive form of gambling directly among the poor, and to remove revenues from the communities that need them most. A maximum rate of payout would insure that revenues were returned to the neighborhoods which supported the games, and would make the lotteries more competitive with organized crime.

If State-conducted lotteries are properly set up and managed, and if their promotional and marketing techniques are strictly controlled, they can be an effective means of raising modest revenues for government purposes without adverse consequences to the public. To implement these policies, **the Commission recommends that a statute be considered by those States which choose to operate lotteries** (contained in an appendix to this Report). This enabling act contains the basic provisions necessary to establish a proper and efficient State lottery. Also proposed is a regulation concerning the disclosure of odds, which the Commission believes should be adopted forthwith by all of the current lottery States, and a regulation concerning instant games which is recommended should evidence of excessive play be provided.

BINGO

> American women play a very strange game. Can't recall its name, but it's played in a large hall by several hundred women seated at tables with a number of small cards before them. A man on an elevated platform constantly calls out numbers to which the women listen attentively, never saying a word. Then suddenly one woman shouts at the top of her voice: "Bingo!" and all the others exclaim, "Aw nuts!"
>
> *Scarne's Complete Guide to Gambling*

Although the above account is that of a bemused Englishman's first reaction to bingo, it represents a common—and inaccurate—perception of one of America's most popular and widely played gambling pastimes. Contrary to popular belief, bingo cannot be categorized simply as a parochial, low-stakes game played by middle-aged and elderly women.

It is, rather, a billion-dollar industry (much of it illegal) whose popularity permeates all aspects of American society, and the abuses of which often go undetected or unremedied.

Bingo nonetheless holds a unique position among the various forms of gambling: Many people do not consider it true gambling at all. Because bingo sessions are usually run or sponsored by charitable organizations—churches, synagogues, service clubs, and the like—people tend to attribute to it a respectability they would not accord, say, numbers playing. Bingo operations—lawful or not—function so openly and are so numerous that many players never question their legality. And some would argue that the amount of money an average player spends on an evening of bingo—less than $6.00—is too small to be considered "gambling"; rather, they see it as an "entertainment" fee.

Background

The origin of bingo is obscure: It has variously been reported as an English, Dutch, or Swedish game. One gambling authority says it developed from the Italian parlor game of lotto, which in turn was based on the Italian National Lottery, now 450 years old. Another source claims it evolved from keno, a lottery popular in New Orleans in the 1840's. Revised forms of lotto and keno are still played today.

Whatever its origin, bingo has undergone a number of changes over the years. The 1863 American edition of Hoyle lists bingo as a game played with dominoes. In the 1920's, movie theaters had bingo nights, which were actually raffles intended to increase business and circumvent State laws prohibiting such activities. At these raffles, the winner of a drawing would shout "Bingo!" to claim his prize.

Mechanics

Modern-day bingo, also known as beano, is a simple game, based entirely on chance and played until a participant wins. The games are often held in lodges, halls, church basements, and permanent "bingo parlors." Long tables are set up, and at each seat bingo cards and covering chips are placed. The cards, made of cardboard or paper, are printed with five rows of five squares each. One letter of the word BINGO appears over each of the vertical columns. All of the squares contain a number, except the "free" center square. Numbers 1 through 75 are used. The "B" column usually contains any five numbers between 1 and 15; the "I" column, any five between 16 and 30; and so on.

The purpose of the game is to cover enough called numbers to form a pattern—usually a vertical, horizontal, or diagonal line, or four corners. There are also many special games and gimmicks designed to increase participation.

In a typical game, the announcer calls a letter and number, randomly selected from 75 ping-pong-type balls printed with a letter from the word BINGO and a number from 1 through 75, in the same groupings as the cards. As these numbers are called, the balls are placed on a master board containing all the letters and numbers to form a record of the game.

The two most popular devices used to insure random selection of a ball are the bingo cage, a wire mesh sphere which is twirled to mix the balls and then stopped to allow one ball to fall out of the bottom, and the bingo blower, a glass enclosure in which the balls are kept aloft by a jet of air until one ball falls through a small opening.

When a person—or persons—shouts "Bingo!" the announcer and a floor person check the cards against the master board. If the cards tally, the winner or winners receive their prizes and a new game begins. As many as 90 or more games may be played at a single session.

Volume of Business

Because so much of bingo playing is illicit, and because reporting procedures are unreliable or nonexistent even in some States where the game is legal, a total estimate of money wagered on the game is impossible to make from official sources. So, too, for different reasons, is an estimate of the total revenue raised by the States through bingo licensing and taxation. An official of one State, however, has said privately that bingo there was a "huge" business, unpoliced, underreported, and answering only to the whims of local authorities. An indication of the success of the game can be seen in New York, where in 1 year the reported handle alone was nearly $200 million (from which the State realized more than $1 million in revenue).

From projections of data in its household survey, the Commission estimates that about $1.7 billion is spent—legally and illegally—on bingo in a given year. The average player bets $5.93 per session.

Bingo Regulation

At present, 34 States sanction bingo (see table 5-61). The methods by which they license, tax, and regulate the game vary widely, however.

TABLE 5-61 —STATES PERMITTING BINGO

State	State approval	Local approval	License required	License fee	Noncharitable organizations	State tax	Total handle[1]	Revenue to State[1]
Alaska	yes		yes	$10 p.a.			N/A[*]	N/A
Arizona	yes		yes	$75 p.a.[2]	yes		N/A	N/A
Colorado	yes		yes	$50 p.a.			$11,937,450	$131,641
Connecticut	yes		yes	varies			N/A	N/A
Delaware	yes		yes	$15 p. event			$8,310,396	$39.780
Florida	yes		no				N/A	N/A
Illinois	yes		yes	$200 p.a.		10%	N/A	$6,842,946[3]
Iowa	yes		yes	$10 p.a.			N/A	N/A
Louisiana	no	yes	yes	none			N/A	N/A
Maine	yes		yes	$2 p. week			$5,437,697[5]	$24,210[5]
Maryland	no	yes	yes	varies	yes[4]		N/A	N/A
Massachusetts	yes		yes	$50 p.a.		5%	$73,333,897[3]	$3,667,992[3]
Michigan	yes		yes	$100 p.a.			$84,000,000[6]	$189,260
Minnesota	no	yes	no	——	yes[4]		N/A	N/A
Montana	no	yes	yes	N/A			N/A	N/A
Nebraska	yes		yes	$10[7] p.a.		10%[7]	$5,364,563	$536,456[7]
New Hampshire	no	yes	yes	$10 p. month	yes		N/A	N/A
New Jersey	no	yes	yes	$10 p. event[7]	yes		$93,549,474	$331,375
New Mexico	yes		no	——			N/A	N/A
New York	no	yes	yes	$12.50 p. event[8]			$182,312,388	$1,122,554
North Carolina	no	yes	no	——			N/A	N/A
Ohio	yes		no	——			N/A	N/A
Oklahoma	no	yes	yes	$25 + $5 p.a.			N/A	N/A
Oregon	yes		no	——			N/A	N/A
Rhode Island	yes	yes	yes	$10 p. event			N/A	N/A
South Dakota	yes		no	——			N/A	N/A
Tennessee	yes		no	——	yes[9]		N/A	N/A
Vermont	yes		no	——			N/A	N/A
Virginia	yes[10]		yes	varies[10]			N/A	N/A
Washington	yes		yes	varies		[11]	$20,894,381	$73,130
Wisconsin	yes		yes	$10 p.a. & $10 p. event			$4,444,048	$345,859
Wyoming	yes		no	——			N/A	N/A
Kansas	yes		yes	$25 p.a.		yes[12]	$10,658,252[14]	$588,249[14]
Nevada	yes	yes	yes	varies	yes	yes[13]	N/A	N/A

[*] Not available

[1] Except where otherwise indicated, figures are for calendar year 1974.

[2] $50 to the State, $25 to the municipality; smaller operations pay $5 each to State and municipality.

[3] Fiscal year 1975.

[4] County governments may conduct bingo games to raise revenue

[5] Fiscal year 1974.

[6] Estimated average annual handle.

[7] Fees and taxes on bingo are divided equally between State and municipalities.

[8] Operators must also pay a percentage of the take to the State.

[9] Labor unions may conduct bingo games.

[10] Municipalities issue licenses under uniform State statute, but set their own licensing fee.

[11] Municipalities may tax up to 10% of bingo operations within their jurisdiction.

[12] State imposes 3.5% sales tax and 2% enforcement tax

[13] Bingo conducted for profit is taxed on the basis of its volume of business: bingo conducted for charity is not taxed.

[14] May 1975-March 1976

About the only consistent factor in the States' treatment of bingo is their requirement that licensing be restricted to operations that are charitable in purpose. (A few States allow county governments, labor unions, political groups, or service clubs to conduct games as well.) In Michigan, for example, bingo licenses are issued only to "Religious," "Educational," "Veterans," "Fraternal," "Service," and "Senior Citizens" groups. (It should be noted that despite the ostensibly philanthropic motivations attributed to bingo sponsors, only 2 percent of the players who responded to the Commission's survey said they played bingo because it was in a "good cause." And in Nevada, where bingo is a commercial game like any other, the participation rate is higher than elsewhere.)

The authority for licensing and controlling bingo playing also varies widely among the States. In most, the State government is the licensing agent; in others, the county or other municipal government issues the permits; in Rhode Island and Nevada, authority is divided between State and local government.

The amount of the license fee, its distribution to the State and the community, and the manner in which it is imposed also differ greatly in the bingo States. Where there are license charges, annual fees range from $10 (e.g., Iowa) to $200 (e.g., Illinois). In some States, the operator is charged a fee every time a bingo event is held. In few cases does the fee appear to be prohibitive.

Gambling Survey Results

The National Gambling Commission's survey of American gambling practices and attitudes revealed that bingo is a popular form of gambling whose appeal transcends specific sex, age, income, and education delineations. Nineteen percent of the population played bingo in 1974 (table 5-62). Of all types of gambling, legal and illegal, only lotteries enjoyed a higher participation rate than bingo, yet the bingo handle in 1974 was double that of the lotteries.

TABLE 5-62.—DEMOGRAPHIC CHARACTERISTICS OF BINGO PLAYERS

	Percent who played in 1974	Percent of total players who are: Heavy players: Once a week or more	Moderate players: Once a month	Light players: Less than once a month
Total Sample	19	8	17	75
Sex				
Male	16	1	14	85
Female	21	13	18	69
Age				
18-24 years	27	4	27	69
25-44 years	21	8	15	77
45-64 years	16	9	14	77
65 and over	8	15	5	80
Income				
Under $5,000	5	25	13	62
$5,000-$10,000	15	4	15	81
$10,000-$15,000	20	12	11	77
$15,000 and over	21	6	22	72
Education				
Less than high school	15	10	9	81
High school graduate	23	8	23	69
Some college	21	6	16	78
College graduate	16	5	16	79
Marital Status				
Married	18	6	17	81
Divorced, separated	28	20	10	69
Never married	23	0	20	78
Widowed	12	43	10	79

Because of the game's wide appeal, it is difficult to develop a profile of the "average" bingo player. Although the stereotype of a bingo player is a woman, 16 percent of the male population played bingo in 1974—more than bet on the horses or placed sports bets with bookies. The stereotypical bingo player is middle-aged or elderly, yet the survey results show that players under 25 had the highest proportional representation among all age groups, while players over 65 had the lowest.

Yet the stereotype is not entirely a myth. If all bingo players are divided into three groups on the basis of frequency of participation, the popular image of the bingo player appears among the 8 percent who play once a week or more. Middle-aged and elderly women, widows, and those earning under $5,000 a year are highly represented among the "heavy" bingo players. But among the great majority of players—the 75 percent who play less than once a month—distinctions on the basis of age, sex, income, marital status, and education are obscured.

Following are additional highlights of the survey results:

1. Bingo and Family Income (table 5-63). The average annual wager by bingo players earning under $5,000 was $142 in 1974; players in all but one of the other income categories wagered less than $100. The average annual wager for all players combined was $74. Only lotteries and sports cards had lower stakes.

Bingo is one of the more regressive forms of gambling—that is, those in the lower income groups spend proportionately more of their income playing it than those in higher income categories. It is less regressive, however, than numbers or sports cards, and about the same as State lotteries.

2. Reasons for Playing (table 5-64). Despite bingo's association with charity, most people do not play for charitable reasons. Bingo is viewed more in "social" terms than other forms of gambling; most players play "to have a good time," or for excitement or challenge. Less than a fourth of all players cited the chance to make money or to get rich as a reason for their playing. Among nonplayers, lack of interest was the primary reason given for not participating. About a third of the nonplayers cited money reasons. Adverse moral, legal, and societal consequences of playing bingo were rarely mentioned.

TABLE 5-64.—REASONS FOR PLAYING AND NOT PLAYING BINGO

Reasons for playing	Percent
Interest:	75
Good time, excitement, challenge	
Pass the time	
Money:	23
Make money, get rich	
Reasons for not playing	**Percent**
Lack of interest:	94
Don't know or think about it, other things to do	
Money:	35
Costs too much, waste of money	
Moral Consequences	3
Legal Consequences	2
Social Consequences	4
Availability	5

NOTE Participants chose one, two, or three reasons from among several reasons provided for playing or not playing.

3. Legal Versus Illegal Bingo (table 5-65). Fully 44 percent of those living in States where bingo is illegal believe it is legal, making bingo the form of gambling about which public knowledge is least accurate. The confusion may be partly due to the game's close association with respected community institutions such as churches and charitable groups and to the fact that a number of States permit charitable exemptions to their lottery and bingo prohibitions.

Of all forms of gambling, only bingo received majority support for legalization among people who live in States where bingo is currently illegal. Twenty-two percent of the nonplayers who did not know that bingo was legal in their State said they would play if it were legal. This represents a large potential market for the game.

TABLE 5-63.—FAMILY INCOME AND BINGO PLAYING

	Family income						
	Under $5,000	$5,000-10,000	$10,000-15,000	$15,000-20,000	$20,000-30,000	$30,000 & over	Total sample
Percent who bet	8.68	18.84	20.27	21.56	22.05	17.17	18.73
Average annual bet per player	$142	$26	$114	$55	$65	$97	$74
Average annual bet per capita	$12	$5	$23	$12	$14	$17	$13
Average annual takeout per capita (Takeout rate: 33%)	$4.06	$1.58	$7 62	$3.91	$4.71	$5.51	$4.28
Percent of income:							
Bet per capita	0.49	0.64	0.18	0.07	0.06	0.04	0.08
Taken out per capita	0.162	0.002	0.061	0 022	0.019	0.019	0 027

TABLE 5-65.—DIFFERENCES IN BEHAVIOR AND ATTITUDES OF STATES WITH LEGAL BINGO VERSUS STATES WITH NO LEGAL BINGO

	Percent	
	States where legal	States where illegal
Knowledge of legality:		
Believe it is legal	77	44
Believe it is not legal	16	41
Don't know	7	15
Attitude toward legalization:		
Positive	73	63
Negative	15	27
Unsure	9	7
No answer	3	3
Believe it is illegal but would bet if it were legal	22	28
Played bingo in 1974	21	16
Total days of attendance in 1974	52	48
Average daily expenditure per player	$5.93	$5.92
	All States	
Average days played each year	13	

Bingo and the Law

Despite bingo's popularity as a charity fundraiser and its reputation as a harmless pastime, it has been the object of abuse by a number of sources: Illegal parlors resort to tricks to circumvent the law or openly defy it. Racketeers are thought to control bingo games—legal and illegal—in a number of urban areas. Skimming and other scams are practiced by both organized groups and shady independent operators. Some bingo players have devised elaborate cheating schemes.

Law enforcement officials appear to be of two minds regarding illegal or crooked bingo: One group feels that it is not a problem—and indeed it often is not—or that the public wants it and the police have the responsibility of enforcing the law to the extent that the public desires. The other group, which feels crooked or illegal bingo is a problem, must often contend with an apathetic public and no investigative resources. It is probably fair to say that regarding illegal bingo operations, the police are damned if they do and damned if they don't.

ILLEGAL BINGO PARLORS. Some operators, to circumvent licensing requirements or statutory prohibitions, merely avoid using the word "bingo" and charge a fixed fee for a night of entertainment. That entertainment might consist of recorded music and "free" bingo games. At least one State has ruled that bingo is allowed if it is provided free during a paid entertainment. Other operators simply conduct open—and illegal—games, either moving from place to place and chancing the occasional police raid, or paying police officers to ignore the violation. In any event, penalties for bingo violations in most States are minor and can be looked upon as a business expense.

RACKETEERS. Bingo takes in nearly $2 billion a year. Laws regulating bingo may be unenforced or ambiguous, and it is easy to rake off substantial unreported amounts of money taken in at the games. Thus, it is apparent that national or local organized criminal groups would be interested in bingo as a source of illicit income. A number of cities report that a single commercial bingo operation runs the majority of charity-sponsored games.

Some States have legalized bingo and set up control boards not to increase State revenues but to provide State supervision of games thought to be controlled by organized crime—particularly organization-sponsored games run by commercial operations. Legalization gives the States control over licensing and access to bingo records.

Even where the police want to investigate bingo operations thought to be infiltrated by racketeers, public sentiment often is against it. The bingo-playing public feels that an innocuous source of pleasure is being taken from them while the police ignore "real" crimes such as robbery. Churches and social organizations often sponsor the games despite the crime involved; the money these games bring in may be their charity's only source of support—even if the charity is not receiving its fair share from the dishonest bingo operators. State and local governing bodies are unwilling to spend the money needed to finance a thorough investigation of an area's bingo operations. And laws surrounding bingo may be so ambiguous that cases actually brought to court are often dismissed, and the few penalties imposed are rarely more than minor fines.

SCAMS. Skimming—the practice of underreporting income from games and pocketing the difference—is thought to be the biggest problem regulatory agencies and law enforcement officials have with bingo. Skimmed money is tax-free: Not only do the Federal, State, and local governments not receive their share of taxes from that income, but State or local governments that base their license fees on the income from a bingo parlor or that receive a percentage of the take also lose revenues. And the charities these games ostensibly support, as well as the players themselves, lose.

Skimming is easy to do and hard to detect because bingo players pay cash. To prevent skimming, both the number of players and the number of cards they play would have to be counted for each game. With thousands of games played at hundreds of bingo sessions each week in a given locality, it would be practically impossible for a municipality—even assuming it had the resources and the inclination—to check each operation. (A private survey of three bingo sessions in a large mid-western city found one session's take underreported by $1,000; the second by several hundred dollars; and the third to be even.)

Most bingo scams are simple: Not all games are reported to the regulatory authority, and the bingo operator merely pockets the money from the unreported ones. Skimming is even easier if the floor workers are involved: For example after a collector turns over the money picked up from the tables, the [illegible]unter wh[illegible] tabulates each game's income) records a figure lower than the amount collected and keeps the difference. To avoid paying out the large jackpots advertised to lure players, some operators hire a player who works from a card recorded earlier with the announcer. The announcer calls the numbers from that card to insure that the "plant" wins and the jackpot remains with the house.

CROOKED PLAYE[illegible] fewer in number than the scams devised b[illegible] [illegible]rs but much more intricate are the scams devis[illegible] [illegible]s to cheat at bingo. Although most bingo [illegible], special jackpots of $1,000 or more might [illegible] scheming seem worthwhile. One elaborate [illegible] was developed by a family of three who, working with thousands of hidden, memorized cards, were able to win some of the higher stake games by substituting winning cards from their hidden [illegible] transparent card markers with numbers stuck to their undersides. If the player needed a certain number to win, he placed the correct numbered marker on the card. Since the checkers read the numbers through the markers, the false number escaped detection. Today, the use of serialized and specially printed cards makes cheating by a player extremely difficult, and such cheating is not considered a problem.

Consequences of Legalization

The Commission's original research—especially its survey of gambling in America—has uncovered two facets of bingo playing that may contradict earlier perceptions of the game: Bingo is big business—nearly $2 billion annually—and it is played extensively throughout the United States whether it is legal or not.

These findings will enable the States to evaluate their policies toward bingo and perhaps to change them. Following is a discussion of the issues surrounding bingo and the possible consequences of increased regulation of the activity.

Although bingo is now legal in 34 States, regulation of it varies widely: Only Nevada and Maryland allow straight commercial bingo; in most other States, bingo may be played only for charitable purposes. Almost all the States require bingo licenses, but few have license control boards—licenses are merely filed with a State or local government office and are available, usually for a nominal fee, to anyone with an ostensibly charitable purpose. Most bingo operations keep few or sketchy records; often the statutes themselves do not require a strict accounting of income. Many times the charities these games are conducted to support receive only a small fraction of the money taken in. Law enforcement generally ignores illegal or dishonest bingo games: The few police efforts to crack down on these games are often resisted by the public, who want to play and see no harm in it; and most municipal or State budgets have few funds to spare for investigations. Many policemen believe that illegal bingo is a "victimless" crime, too insignificant to merit intensive enforcement.

It seems clear that few States have systems of bingo regulation that are effective or productive in terms of supervision, revenue raising, or law enforcement. Thus, States wishing to change their bingo policies find little to guide [illegible]

In formulating bingo policy, the States must examine what their goals are, whether the benefits of effective regulation are worth the cost, and whether stronger regulation serves the public interest.

If the goal of increased regulation is to control illegal or dishonest bingo, States should realize that the effort requires considerable increases in money and manpower, as well as the active support of the community and its law enforcement personnel.

If revenues are the goal of bingo regulation, the States must be aware of how much money the games can be expected to generate. As with other forms of legalized gambling, there is a point at which operating costs and taxation decrease the payoff to the public to such an extent that the public turns to illegal games where the payoffs are higher.

If both ends—crime control and revenue—are desired, it may be possible to finance law enforcement efforts with the taxes received from the games. Whether this would still enable the State to have money left over for other purposes must be determined.

The Commission feels that the States should be aware of these issues as they develop their policies toward bingo. To that end, the Commission has drafted a model regulation designed to insure a realistic, practical, and orderly approach to bingo for those States wishing one; that model regulation appears in an appendix to this Report.

CONCLUSIONS AND RECOMMENDATIONS

The Commission perceives little difference between "charitable bingo" and commercial bingo. Charitable bingo as it exists in most States is charitable only in that it is sponsored by statutorily sanctioned organizations such as churches and service clubs. It is operated, however, like a commercial operation: It offers large cash prizes; it promotes elaborate games designed to induce participants to buy more—and often more expensive—bingo cards to increase their chances of winning; and, most important, it is open to everyone, not just to members of the sponsoring organization. Many charitable bingo occasions are run by commercial bingo operations, not by the members of the sponsoring organization. The Commission's survey has found that people play charitable bingo for the same reasons they might participate in commercial bingo: Bingo provides entertainment and a chance to make money The charitable aspects of the game are relatively unimportant. **For these reasons, the Commission recommends, for regulatory purposes, no distinction be made between charitable and commercial bingo.**

As stated earlier, bingo is a billion-dollar industry played by millions of people in every area of the country, whether it is legal or illegal. Bingo is also the most loosely regulated—or unregulated—form of gambling in America and as such is the object of numerous abuses which affect law enforcement, government revenues, and the players themselves. In addition, bingo is a highly regressive form of gambling, making it imperative that the State or local governing body take steps to control the game. **Because of bingo's pervasiveness and the income it generates, the Commission recommends that those States allowing bingo adopt and actively implement regulations to insure that the games are honestly run.**

Although it may be possible for a State to obtain certain revenues from legal bingo while actively enforcing the law concerning it, **the Commission believes that where a choice must be made, a State should concentrate its resources on the law enforcement aspects of bingo regulation.** A minimal State tax on all bingo games could pay for the enforcement of bingo regulation. Whether a higher tax, which would provide revenue in addition to law enforcement, would still enable the game to attract players despite the necessarily lower payout rate is unknown. Unscrupulous practices such as skimming, as well as the suspected involvement of organized crime groups in some bingo operations, also support the contention that tax revenues from bingo should be concentrated on police efforts. The office of the State Attorney General should be responsible for enforcing the regulations.

Bingo's reputation as a harmless form of fundraising is not entirely deserved: Too often the charities these bingo operations ostensibly support receive only a minute portion of the handle from the games, and players who feel they are victims of unfair or fixed games have no redress. **Therefore, the Commission recommends that all bingo regulations state what percentage of the handle must go to charity and what percentage of the handle must be paid out in prizes. The Commission further recommends that each bingo organization be required to obtain a bond with the State that could satisfy all adjudicated claims against it. It also recommends that bingo operators be licensed by the State treasurer, as is the case in Massachusetts.**

In order that any bingo regulatory scheme be administered most effectively, **the Commission recommends that the States adopt an enabling act, where permitted by the State constitution, that would provide for a single bingo director.** (That enabling act could be modeled after the model State Gaming Act, which will be included in an appendix to this Report.) The director would supervise the conduct of bingo within the State by promulgating regulations based upon the model provided. Under the enabling act, the bingo director would be appointed by the chairman of the executive body of the State gaming board. To be eligible for the position, a person must be of such character and reputation as to promote public confidence and trust in the administration of bingo within the State, and make a complete disclosure of assets and liabilities to the gaming board.

FOOTNOTES

[1] Information for this section was drawn from the following sources (1) Best, Katherine and Katherine Hillyer, *Las Vegas, Playtown U.S.A.* New York: David McKay Co., Inc., 1955. (2) Herwitz, Raymond A., *Yes, You Can Win . . . But Don't Bet the Rent Money: The Story of Nevada Gambling*. New York: Vantage Press, 1969. (3) Lewis, Oscar, *Sagebrush Casinos: The Story of Legal Gambling in Nevada*. Garden City, N.Y.: Doubleday and Co., Inc., 1953. (4) Monroe, Keith, "The New Gambling King and the Social Scientists," *Harper's*, January 1962, pp. 35-41. (5) Nevada Gaming Commission, *Legalized Gambling in Nevada*. Carson City: State Printing Office, 1972. (6) Turner, Wallace, *Gambler's Money, The New Force in American Life*. Boston: Houghton Mifflin Co., 1965. (7) Wagner, Walter, *To Gamble or Not to Gamble*. New York: World Publishing, 1972)

[2] Lewis, *Sagebrush Casinos*, p. 56

[3] Following the Kefauver investigations, several bills were introduced in the U.S. Congress to eliminate legal gambling in Nevada by one means or another. One of the bills, which would have taxed legal gambling [illegible] close to being passed. Some people believe that it was the threat of such action by Congress, and not pressure from the citizens of Nevada, that provided the strongest impetus for the gradual strengthening of State-level casino gambling regulations.

[4] Gambling in Nevada is called gaming, the term used hereinafter to refer to the industry as a whole.

[5] Includes actual gambling earnings only.

[6] Employment figures supplied by the Nevada Employment Security Department, Carson City, Nev.

[7] Nevada law provides that persons convicted of felonies cannot obtain gambling licenses. But since gambling violations in most States are misdemeanors, a prior gambling conviction is unlikely in itself to rule out license eligibility.

[8] The Hilton International has been able to reduce the incidence of cheating through the use of videotape cameras with slow motion devices. Five convictions have been obtained using videotape as evidence.

[9] Testimony of George Holt, Clark County District Attorney, April 19, 1975.

[10] Philip Richardson, "Effects of Legalized Gambling on Community Stability in the Las Vegas Area," unpublished paper prepared for the Twentieth Century Fund, 1973.

[11] Anthony Gabriel Vogliotti (*The Girls of Nevada*, Citadel Press, 1975) generally supports this contention but claims that some of the lower-level employees—bellmen, pit bosses, bartenders, etc.,—act as "agents" for prostitutes as a sideline.

[12] Testimony of Richard P. Crane, August 20, 1975.

[13] Nevada gaming regulations define hotel/casino complexes as those establishments with at least 300 rooms and $9 million total gross revenue.

[14] Albin J. Dahl, "Some Observations on Gaming Control Board Data on Group I Casinos," *Nevada Gaming Abstract*, 1971, pp. 111-112.

[15] Ibid.

[16] Ibid.

[17] Testimoney of Saul Leonard, Laventhol & Horwath, August 20, 1975.

[18] Includes Puerto Rico.

[19] Because of the small sample, data on compulsive gamblers in Nevada is less firm than other aspects of the Nevada study.

[20] The fact that Nevada has no race tracks may be another factor contributing to the low rate of illegal gambling there.

[21] Testimony of Sir Arthur Peterson, Permanent Undersecretary of State, Home Office, Great Britain, Sir Ronald Radford, Chairman, Her Majesty's Customs and Excise; Sir Stanley Raymond, Chairman, Gaming Board of Great Britain, Mr. William Stephens, Secretary to the Gaming Board of Great Britain, and Mr. Kenneth Witney, Special Consultant to the Royal Commission on Gambling; Washington, D.C., September 20-23, 1976.

[22] Testimony of the Honorable Arlington Butler, Chairman of the Gaming Board of the Bahamas, Washington, D.C., September 20-23, 1976.

[23] David Alexander, *A Sound of Horses* (New York, Bobbs-Merrill, 1966), p. 112.

[24] Arthur [illegible] Gambling," *Journal of Political Economy*, Vol. 84, Number 1, February 1976.

[25] Daniel Suits, unpublished paper prepared for the National Gambling Commission.

[26] John Ciccolo, "Economic Analysis of the Impact of Increasing Racing Dates and Changes in the Parimutuel Takeout Rate on the Thoroughbred Industry," National Gambling Commission consultant paper.

[27] See table 5-1 and accompanying explanation regarding racing figures.

[28] Defined here as tracks whose daily purse distributions were less than $70,000 in 1970.

[29] The nine large tracks are Hollywood, Aqueduct, Santa Anita, Belmont, Saratoga, Del Mar, Oaklawn, Hialeah, and Monmouth. The average daily attendance at these tracks in 1970 was 22,000, compared [illegible] at the smaller tracks. The average per capita wager at the large tracks was $150 compared to $77 at the small tracks. (Source: *The Future of Thoroughbred Racing in the U.S.* by Pugh-Roberts Associates, Inc., July 1970)

[30] Op. cit., Pugh-Roberts.

[31] The Commission, interested in exploring the consequences of making more realistic assumptions about the rate of inflation and the growth of the national economy, requested that certain additional computer simulations be run. Although the Commission offered to pay for these additional runs, the Pugh-Roberts staff did not respond to this request.

[32] State of New York Commission on Investigation, *The Financial Condition and Operations of Roosevelt and Yonkers Raceways and Their Regulation by the State Racing and Wagering Board*, March 5, 1976.

[33] Dog owners claim that when tracks are permitted to race their own dogs, abuses can occur. For example, a situation may arise in which all but two or three of the dogs scheduled to run in a particular race are owned directly or indirectly by the track. If, on the morning of the race, five of the six "house" dogs are exercised vigorously until they are extremely tired, there is a strong possibility that the sixth house dog will finish among the three winners. Anyone in a position to know what had occurred would thereby have a definite betting advantage.

[34] Among the security measures employed are the self-grading system in which greyhounds are rated on the basis of past performance, a special identification system, lockout kennels in which all dogs must be surrendered to the care of State officials 2 hours before they race, prerace and postrace drug testing, use of electronic timers, weigh-in requirements, and the drawing of lots to fill races.

[35] Ironically, casino owners in Nevada oppose the establishment of greyhound racing in their State and in California, fearing that competition from the tracks would reduce casino revenues.

[36] If OTB's interpretation of this statute is correct, then the Commission would recommend to Congress that the statute be amended to exclude legal OTB operations. One reason is that the separate pool arrangement tends to work to the advantage of illegal bookmakers, which is exactly the opposite of what Congress intended to accomplish through the statute's enactment.

[37] Due to the existence of the surcharge on OTB winnings, the OTB payout is actually lower than the on-track payout.

[38] Exotic wagers entail the selection of three or more horses.

[39] In some cases, tracks offer bets not available to OTB patrons.

[40] The time limit is expected to change to 10 minutes before a race.

[41] Exotic wagering constituted about 20 percent of the New York City off-track betting handle in 1974 and 1975.

[42] While there may have been other factors in the decline of the OTB handle, such as increased advertising by New York tracks, most observers believe that the surcharge was the greatest single cause.

[43] Commission hearings, May 6, 1975.

[44] Research by John Ciccolo on data for New York City thoroughbred tracks shows that the elasticity of off-track handle with respect to the takeout rate is substantially lower (−.85) than the elasticity of on-track handle with respect to the same variable (−2.24). The results are reported in two papers contained in the Commission's appendix volumes: "Economic Analysis of the Impact of Increasing Racing Dates and Changes in the Parimutuel Takeout Rate on the Thoroughbred Industry," and "The Impact of the Introduction of Off-Track Betting: Some Preliminary Analysis."

[45] Interstate off-track betting is defined as any system that permits citizens in one State to wager on races run in another State.

[46] A bill which has been passed by the New York State legislature but not yet signed by the governor would increase the maximum to 10 thoroughbred and 10 standardbred races.

[47] H.R. 14071, introduced in May 1976 by Representative Fred B

Rooney of Pennsylvania would outlaw all interstate parimutuel OTB within 5 years, thereby eventually putting the entire Connecticut operation out of business. A proposed amendment to the bill was defeated which would have allowed the races of "host" States to be used in interstate OTB under certain conditions, including consent of the host track and/or host State. The Commission has sent a report to Congress containing alternative proposals for an interstate OTB bill.

[48] See *Hoerner v. United States* 147 U.S. 449 (1892) at 458

[49] Farrell, Thomas, "The Politics of Prohibition: Numbers Gambling and Crime in America." Princeton, New Jersey, 1970

[50] Ezell, John Samuel, *Fortune's Merry Wheel: The Lottery in America*, Harvard University Press, Cambridge, Mass., 1960, p. 30.

[51] Weinstein, David, and Lillian Deitch, *The Impact of Legalized Gambling*, Praeger Publishers, New York, 1974, pp. 8-9.

[52] Op. cit., Ezell, pp. 981-982.

[53] Ibid., p. 82

[54] Op. cit., Weinstein and Deitch, p. 9.

[55] "Gambling in Perspective" survey prepared for the Commission, 1974.

[56] Ibid.

[57] Op. cit., Ezell, p. 95.

[58] Ibid., pp. 181-182.

[59] Op. cit., Weinstein and Deitch, p. 10.

[60] Ibid., p. 10.

[61] Ibid., p. 11, and op. cit., "Gambling in Perspective." See also Ezell, op. cit.

[62] Op. cit., Weinstein and Deitch, p. 11

[63] Op. cit., Ezell, pp. 250-251.

[64] September 2, 1890 (H.R. 11569), "An Act to amend sections 3894, 3929, and 4041 of the Revised Statutes relating to lotteries." (c. 908 1, 26 Stat. 465)

[65] March 2, 1895 (S. 1620), "An Act for the suppression of lottery traffic through national and international commerce and the postal service subject to the jurisdiction and laws of the U.S." (c. 191, 1, 2, 28 Stat. 9631)

[66] See Internal Revenue Code 1954, Section 4401 (Wagering Excise Tax) and Section 4411 (Occupational Tax Stamp).

[67] Commission hearings, statement of Robert E. Walen, Executive Counselor, State of New Hampshire, December 4, 1974

[68] Ibid

[69] See Internal Revenue Code 1954, Section 4402(3)

[70] Commission meeting, statement of Edward J. Powers, Executive Director, New Hampshire Sweepstakes Commission, June 7, 1976

[71] Commission hearings, statements of Chairman Robert Q. Crane and Dr. William E. Perrault, Massachusetts Lottery Commission, former New Jersey Executive Director and presently Superintendent of the Lottery in Illinois Ralph Batch, former Executive Director of the Maryland State Lottery Agency James Slicher; and New Hampshire Sweepstakes Executive Director Edward J. Powers all favored the revision of the United States Code, Title 18, Sections 1301, 1302, 1303, and 1304 to permit the use of the mails and broadcasting facilities by State-authorized and conducted lotteries, April 3, 1974

[72] 18 U.S.C. 1301, 1302, and 1303. 39 U.S.C. 3005

[73] Memo from James E. Ritchie, Commission Executive Director, to members of the Commission on the Review of the National Policy Toward Gambling, September 10, 1974. The Attorney General reaffirmed his position when he testified before the Senate Judiciary Subcommittee on Criminal Laws and Procedures on November 20, 1974.

[74] P.L. 93-583 signed by President Ford on January 2, 1975

[75] Revenue figures, revenue allocations, and other general lottery information contained in this section was obtained from the individual State lotteries through Commission hearings and correspondence with the lotteries.

[76] Source: Public Gaming Research Institute, "Statistical Report," January 1976, Copyright 1975, Public Gaming Research Institute. All rights reserved.

[77] Arthur D. Little, Inc., "Summary of Findings: New York State Lottery," December 1975, p. 5.

[78] Ibid., p. 8.

[79] Ibid., p. 15.

[80] As to the issue of whether a sports pool is a lottery, a British Royal Commission in 1951 published a treatise by an Oxford mathematician who concluded that they were indistinguishable from a practical standpoint. See Hubert Phillips, *Pools and the Punter*, London, 1955.

CHAPTER 6. ILLEGAL GAMBLING INDUSTRIES

Illegal gambling has deep roots in American society. The European settlers who colonized the North American continent introduced inviting games of chance into what was to become the American culture. They also brought with them a diversity of opinion as to the moral, social, and economic propriety of gambling in general. While in many communities gambling was widely tolerated and often condoned, it has never enjoyed either prolonged legal status or full-scale social approbation.

This chapter examines the development of illegal gambling industries in this country and the growth and influence of organized crime in the gambling field. It also describes how the major illegal games are operated today and concludes with a discussion of the controversial issue of sports betting, and recommendations on how to deal with it.

HISTORICAL VIEW OF ILLEGAL GAMBLING

In the 17th and 18th centuries, gambling sentiment was broadly divided along geographical lines. In the southern colonies, where many of the settlers rapidly gained wealth and sought diversion, social wagering among the wealthy was deemed acceptable and the few antigambling laws that existed were not strict; they had as their objective mainly the maintenance of public order. Horseracing (and betting on the outcome of races) was also one of the most popular pastimes of the early southern gentry. Residents of New England opposed gambling because they considered it a form of idleness; 10 years after the landing of the Mayflower they passed a severe law against gambling and other activities that they felt undermined the work ethic. In the 1670's Massachusetts and Connecticut passed specific bans on lotteries, dice, and cards. New York established an early reputation for social "liberalism." When the Dutch surrendered that colony in 1664, the area that is now New York City became a pocket of "vice" on the Eastern seaboard, offering a variety of gambling amusements including horseracing, bullbaiting, and cockfighting.[1]

Eventually, geographical distinctions with respect to gambling practices were obscured. With the American population constantly on the move and growing with new waves of immigration, each population center came to reflect the diversity of gambling opinion, law, and practice.

By the mid-19th century the country was overrun with gambling fever. In the western mining and cattle towns, gambling was often the principal form of entertainment. The western saloons were often combinations of casinos, brothels, and bars. In the East, an antilottery sentiment had developed, and lottery opponents succeeded in persuading most of the States to abolish their lotteries. The antilottery movement was part of a Jacksonian attack on legislatively created privilege.

But it was in the towns along the Mississippi River and its tributaries that the illegal gambling trade was liveliest. The first large gambling casino was built in New Orleans by John Davis. This establishment catered only to the wealthy. Later came the lower class houses of "the Swamp," described by one author as "stink-holes of creation."[2]

Although Chicago had only 600 inhabitants when it was incorporated in 1833, by the late 1840's it had more first-class gambling houses and big-time gamblers than either Cincinnati or St. Louis, which then had twice the population of Chicago. The dominant gamblers in Illinois prior to the great Chicago fire of 1871 were southerners who worked their way north on the Mississippi River steamboats

New York City also became an early gambling center. By 1850, there were approximately 6,000 gambling houses, or 1 for every 85 residents. In Chicago, New York, and elsewhere, the gambling operators paid heavily for police protection, and included in their unwritten protection contracts was the understanding that occasional police raids would have to be staged for the sake of appearances.

> The raiding squads were careful not to damage furniture or equipment, and policemen obligingly guarded the resort while the gamblers and their employees and suckers rode in the hacks to the nearest Magistrate and deposited small sums as bail, which was usually forfeited. This formality completed, they returned by carriage to the gaming house, the police retired, and play was resumed.[3]

The influence of gamblers extended far beyond the police department. A visitor to Chicago around 1870 might have found it difficult to believe that the hundreds of gambling houses operating freely were strictly prohibited by law. He might wonder also how this flagrant disregard for the law could go unheeded by officials and be ignored by a generally law-abiding populace. Powerful machine politicians skillfully exploited the sentiments of different sections of the public. Generally, rural areas were intolerant of gambling. Urban areas, characterized by a new mix of peoples and religions, were tolerant. A movement to legalize gambling in Chicago, San Francisco, New Orleans, New York, or any other city in the late 19th century would have been roundly defeated, not only because of the underlying social and moral taboos still attached to the activity, but because it would have meant a possible end to the lucrative pipeline of payoffs to police and lawmakers.

The level of public tolerance toward all forms of gambling peaked in the 19th century. Various antigambling reform groups were active around the country at the turn of the century. In the early 1900's the constant harassment of gamblers by police during a fairly sustained reform movement in Chicago forced many gambling houses and policy and bookmaking operations to close. Those that remained operated more discreetly. Elsewhere, reformers succeeded in closing down racetracks in many States. By 1915, only seven States continued to allow racing. The reform momentum was relatively short lived, however. Ultimately the demand for gambling services succeeded in outstripping the reformers' ability to reform. But for the reformers there was a consolation prize in another area of public morals: the 18th amendment to the Constitution, which prohibited the manufacture, sale, and distribution of alcoholic beverages.

The Prohibition Era and Afterwards

Although gambling syndicates existed before 1920, it was during the prohibition era that the criminal underworld acquired a tight organizational structure.[4] Much of the credit for this accomplishment has been assigned to Arnold Rothstein, a New York gambler born in 1882.

> Basically, he transformed the world of crime from an anarchic into an authoritarian state. He gathered the loose, single strands of crime and wove them into a tapestry. He took the various elements that were needed to change crime from petty larceny into big business and fused them. The end result was a machine that runs smoothly today.[5]

Rothstein is also noted for having invented the intercity layoff system that insured bookmakers against heavy losses and thus provided the foundation for a nationwide gambling apparatus.

After Rothstein came a parade of underworld figures whose lives and exploits have been extensively documented in film and literature. From the profits of their bootlegging and gambling endeavors, figures such as Al Capone, Frank Costello, Bugsy Siegal, and Dutch Schultz built powerful criminal organizations that still exist today. Organized crime leaders today are less ostentatious than their predecessors. They have not abandoned the use of violence, and in fact rely heavily on the threat of violence to accomplish their goals. But they are generally more discreet in their numerous business dealings, more eager to avoid publicity, and considerably less blatant in their relationship to city and State politics. Local politicians no longer turn out en masse for gangland funerals. Responsible for these changes are stronger State and Federal laws and enforcement efforts and a citizenry less tolerant of overt gangland transgressions than in the past. Revelations produced by the Kefauver investigation in 1950 [6] and the McClellan hearings in 1963-64 [7] focused national attention on the outrageous criminal activities of the underworld and stimulated more vigorous attempts at reform.

These efforts had some success. They resulted in the passage of a series of Federal laws (see chapter 2) which proved effective in eliminating illegal slot machines from stores and restaurants across the country and in closing illegal casinos, including those that were operating in resort areas such as Newport and Covington, Kentucky, and Hot Springs, Arkansas, and on Florida's Gold Coast, and in eliminating the walk-in bookie joints that existed in many cities. With the illegal casino and slot machine business virtually eliminated, many former gambling operators transferred their base of operations to Las Vegas (see chapter 5). Vestiges of the illegal casino business can be found in the form of floating card and dice games, generally played on the streets or in small dingy quarters with participants periodically moving from place to place to avoid apprehension. Finally, the new Federal statutes were successful in combating large interstate layoff operations, most of which were operated by organized crime.

Organized Crime

Central to virtually every discussion of illegal gambling is the phrase "organized crime." This term has historically been defined, redefined, and utilized either to defend or reject numerous positions espoused by legislators, prosecutors, and other members of the legal community. The Commission has solicited, through research as well as testimony from various witnesses, definitions of the term and its utilization relative to gambling violations. The Commission recognizes that there are as many different definitions of organized crime as there are reasons to define it. The most recent definition provided by the FBI is as follows:

> Organized crime is the sum aggregate of the more lucrative continuing types of racketeering activity involving some sort of formalized structure and generally requiring graft or corruption to conduct its operations without interference.[8]

The Commission finds this definition much too broad for the purposes of this Report. A numbers game operated in Harlem and providing payoffs to the police might well fall within the FBI's definition, and yet not be the type of illegal gambling business the Commission feels to be properly within the scope of the routine enforcement activities of Federal agencies. Another method of defining organized crime hinges on the nature of the crime being committed. By that definition, a gambling business that requires several people working together to commit the crime is therefore an "organized" crime.

In 1967, the President's Commission on Law Enforcement and Administration of Justice suggested that the use of violence and corruption regularly by a group seeking to achieve criminal ends should mark the point at which crime is called "organized crime." Since that time, other definitions of "organized criminal ventures," "organized crime enterprises," and "organized crime syndicates" have been put forth by law enforcement officials, study groups, members of the judiciary, and legal scholars.[9]

This Commission rejects the concept of categorization based on the offense committed, as well as the correlative concept which lumps together any members of the criminal subculture bearing a semblance of organization. The Commission believes that members of Congress, as well as the vast majority of the American public, view the meaning of organized crime in the traditional sense; i.e., the national syndicate of Sicilian origin, providing many types of illegal services and having international ties, known generally as the Mafia or La Cosa Nostra. Law enforcement agencies and other authorities have, over the years, greatly expanded this definition, perhaps necessarily, for their purposes. However, the Commission believes that it is not helpful to use this expanded concept when discussing illegal gambling and therefore adopts the traditional definition. Should policymakers employ the broadened concept, it would, of course, then be necessary to review this Report with an eye toward a different application.

The following discussion of organized crime and its involvement with illegal gambling should be read in light of the above definition.

The Commission held hearings in various cities throughout the United States which elicited testimony from law enforcement officials, defense attorneys, and, when possible, persons convicted of or involved in illegal gambling.[10] This testimony made it apparent that there is no uniformity of traditional organized crime control over illegal gambling throughout the country; in some cities such control exists, but not in others. Even where organized crime is a factor, the extent of its involvement varies.

In areas where there is no control by traditional organized crime "families," gambling may nonetheless be syndicated." In any particular city or region, a criminal cartel or syndicate may control a particular type of illegal gambling; to the extent that such an organization follows a pattern of continual activity assisted by systematic corruption of government, the Commission does not suggest it be precluded from the prohibitory aspects of Federal legislation aimed at traditional organized crime or from carefully selected enforcement activities.

The Commission believes that such gambling cartels pose as great a threat to society as their traditional organized crime counterparts but do not lend themselves to the same type of identification and investigation. Beyond these two types of organizations involved in illegal gambling, the Commission specifically rejects the notion that traditional organized crime controls all illegal gambling or that all illegal gambling provides revenues for other illegal activities.

The Commission also acknowledges the existence of independent, nonsyndicated gambling violators who would not be covered by the above discussion. It believes that these individuals present a much less serious threat to society because their criminal activity generally is limited to gambling and is not accompanied by corruption and the use of violence. Consistent with its recommendations in chapter 2 regarding selectivity of prosecution, the Commission urges that such independent gambling operators receive minimal attention from Federal law enforcement authorities. Adoption of this policy would free additional resources for use against organized crime and syndicated gambling.

THE GAMES: NUMBERS

Early Development[11]

The forerunner of modern numbers gambling was a game called "policy." Policy originated as a sideline for the 18th century London lottery houses and was introduced in America late in the 18th century as an adjunct to lotteries. While lotteries were used as fundraisers for governments and charities, policy was operated as a sideline for the profit of the lottery company alone.

By the time of the Civil War, most State lotteries had been outlawed, and policy, which had never been legal, began to develop independently. Like many of the earlier lotteries, policy was based on drawing numbers (from 1 to 78). Normally, 12 numbers were drawn, and players bet that from 1 to 4 numbers of their choosing would be among the 12 drawn. Even before the Civil War there were hundreds of policy shops in New York City, and the game [illegible] argot and mystique. Dream books were widely sold, designed to enable the customer to choose his number for the day based on the dreams he had the night before. Because policy fed on numerous small bets, it was especially popular among the poor. Blacks had a reputation as particularly avid fans

Policy was the first form of gambling to become syndicated. Early policy operations were coordinated by backers who financed local policy shops. Because bettors chose their own numbers, it was always possible that a small-time policy operator might on any particular day have more bets on winning numbers than he was able to pay off. As early as the Civil War, a group of politicians, gamblers, and businessmen in New York City put together a $1 million fund to back the policy shops of the city, provide protection, and gain control of the Kentucky lotteries from whose daily drawings the winning numbers were determined. The syndicate soon collapsed because of internal bickering, but syndicate control remained the norm. By 1900, a single policy operation in Chicago would have over 100 policy writers at stores, saloons, and barbershops to collect the bets and bring them twice daily to the headquarters, where the winning numbers were drawn from a wheel. The bets were small, but when a single syndicate pooled the bets of thousands of players, the profits for the backers could be substantial. And the policy runners or writers, operating on commission, could be assured of a steady income.

Two factors reshaped the structure of policy gambling in the 1920's.

The first was the introduction of numbers as a rival gambling game that appealed to the same players. In the new game, a player bet on a number between 1 and 999. There was, of course, one chance in 999 of winning, while the numbers syndicates usually paid off at a rate between 400 to 1 and 650 to 1. At first the winning number was based on a figure published each day: for instance, the last three digits of the total stocks traded on the New York Stock Exchange. By the 1930's, however, the number was determined in a complex way from the results of three races at a designated racetrack—that system still is in use today. Apparently numbers was first played in New York City in the early 1920's. Because West Indian blacks predominated among the early entrepreneurs in Harlem, it is possible that they introduced the game. By the end of the 1920's, numbers had replaced policy in New York and Philadelphia. In Detroit, although numbers was clearly growing, both games continued through the 1930's. In Chicago, by contrast, numbers never gained a foothold, so that policy continues to dominate there even now.

A second, more important development was the rise of black-controlled numbers or policy syndicates in the 1920's. This in turn was linked to the growth in major northern cities of ghettos dominated by blacks and the subsequent development of local black political organizations, with precinct captains and ward leaders capable of organizing voting and exerting political influence. Black entrepreneurs headed policy or numbers syndicates to service customers in the ghettos, and there was often a considerable overlap between local political organizations and gambling syndicates.

In some cities black policy and numbers operators eventually were forced—through coercion or financial necessity—to form alliances with ex-bootleggers, while in other areas policy and numbers continued under black control. In Philadelphia, even before prohibition had ended, two bootlegging groups had become the kingpins of numbers gambling. Ultimate control over numbers was fought out in the mid-1930's among groups of ex-bootleggers. In New York in the early 1930's, the important numbers operations of Harlem generally fell under the control of bootlegger Dutch Schultz. But elsewhere in the city the pattern was more diverse and the influence of bootleggers less clear. In Detroit and Chicago on the contrary numbers or policy developed strong roots in the black community and powerful political protection. Not until the post-World War II period did independent policy operations in Chicago—black and white—finally fall under the influence of ex-bootleggers. In all cities, when bootleggers or ex-bootleggers became involved in numbers or policy, the mechanism was established through a partnership. The original operators or their associates continued as managers and partners. The bootleggers, on the other hand, often provided a variety of services in return for a share of the profits. These services included political protection, financial backing, regulation of competition, and legal representation in case of arrest.

Numbers Gambling Today

Numbers gambling began in the cities and today remains a uniquely urban phenomenon. The game is known by various names, including policy, mutuel, and bolita, but its basic principles remain constant.

The structure of numbers gambling that developed following prohibition is basically intact today, with some numbers rings operating independently and others under the control of, or in alliance with, organized crime. Numbers has always been one of the most visible forms of illegal gambling because so many individuals are involved in its daily operation. A prerequisite to the continued success of this type of gambling is police protection: Numbers has often been cited as a prime source of police corruption.[12]

MECHANICS OF THE GAME.[13] On the basis of superstitious beliefs, hunches, dreams, or other criteria, a person selects a number to wager on. The most popular game uses a 3-digit system in which the bettor may choose from 1,000 possible numbers, including "000." Players also can wager on 1 or 2 of the 3-digit numbers. This is called single or double action, and the payoffs are reduced accordingly.

The wager is then placed with a numbers **writer, runner,** or **seller**—all terms for the person who accepts numbers wagers directly from bettors. Many writers work in the numbers business as a sideline; their primary employment may be in restaurants, factories, stores, gas stations, or any other place that affords contact with the public. Writers are paid a percentage—generally 15 percent to 30 percent—of the gross volume of the wagers they accept. Frequently they also are tipped by winning bettors. Writers are, more often than not, the single largest bettors in the numbers game, using their percentage (i.e., the bank's money) as the basis for their wagering. Wagers collected by the writer go to a **pickup man,** who forwards them to the next level in the hierarchy, the **bank.** This is the central headquarters or processing office; there, the winning number and number of winners are determined, wagers are tallied and recorded, and, where necessary, decisions are made regarding layoff on heavily played numbers and other matters. In the larger operations, wagers may be carried from the pickup man to another intermediary, **the controller,** who has certain decisionmaking responsibilities. In any event, the top level of business is always the bank.

Payoffs on the three-digit system are 600 to 1. this is where **vigorish,** or profit to the operators, is derived. The payment for the winning wager, or "hit," is made at a rate far lower than the risk assumed by the player (i.e. 999-1). While this would appear to leave about 40 percent in gross profit to the operator, it must be remembered that the administrative expenses incurred in the operation of a numbers business are substantial. The profit margin after expenses ranges from 7 percent to 10 percent of gross wagers.

Payment to winners may either be made directly by the writer and deducted from the amount he must pay the bank, or be made to the writer by the bank after he has turned in his tally. The bank usually settles its accounts with the writers on a weekly basis.

In a 2-digit system (policy), there are two basic variations, one utilizing 100 numbers and the other 78 numbers. In both versions the payoffs are 60 to 1. There are many different types of wagers that can be placed, involving combinations of numbers, parlays, etc., but these differ widely from one region of the country to the other. There are also varying sources for the winning number but, generally, the most popular are those that can be readily verified by the players. Consequently, the data from the financial pages, parimutuel handle figures, and racetrack payoffs are most often used in combinations to provide the winning daily number. Some games utilize a policy wheel, and the winning digit is determined by a drawing, akin to a lottery. Others utilize some physical activity, such as rolling numbered balls toward a designated spot, to arrive at the number.

PROFILE OF THE NUMBERS PLAYER. Data produced by the National Gambling Commission's survey of gambling habits and attitudes (see chapter 4) revealed that the Northeast accounts for the greatest proportion of numbers playing—with participation by 8 percent of the adult population compared to 3 percent for the Nation as a whole. Numbers is popularly thought to be a game played exclusively by the poor and by blacks; however, the survey shows that this is not the case. Although a far greater proportion of nonwhites play numbers than whites, Italians and Spanish-speaking groups also are overrepresented. Numbers playing shows a general increase with income up to $15,000, although not so sharp an increase as is found among casino bettors. Virtually all numbers players live within 25 miles of the Nation's 25 largest cities.

Numbers is popularly thought of as a community institution, and the survey lends some support to this perception. Most numbers bettors (about 60 percent) personally know the individual who takes their bets and pays them off. Despite numbers' reputation for dishonesty, most players are confident that they will be paid if they win. Many—21 percent—say they would continue to play the illegal game in addition to playing a legal game if one were legalized, and some—17 percent—say they would play only the illegal game if a legal game were introduced.

Regarding present legal numbers games, only one major factor emerged as necessary to attract current illegal players: the exemption of winnings from income tax. Telephone service and payoffs comparable to the illegal game were also mentioned as desirable features

The majority of Americans are opposed to legalizing numbers games: Only 22 percent overall favor it, the least support for any form of illegal gambling covered in the survey. Numbers players favor legalization more often (69 percent) than nonplayers, and there is some tendency for residents of lottery States to favor legalization more often than nonlottery State residents (30 percent vs. 16 percent). Consistent with this opposition, most bettors feel some negative societal consequence would accompany legalization; however, they see legal numbers as an effective means of depriving organized crime of its revenue. Further, bettors and nonbettors alike anticipate that a legal game would be substantially more honest than the current illegal games.

Numbers is not available to a great many Americans, and therefore many are not sufficiently informed about the subject to make informed judgments. A major reason people gave for not playing was "don't know about it"—a more frequent response here than for any other game.

THE GAMES: BOOKMAKING

Development of Bookmaking

Horse books came into prominence in the 1870's. Bookmakers were initially licensed by tracks to accept wagers at a particular track facility and paid the tracks a daily fee (usually $100) for that privilege.

Once established at the track, bookmakers began to open off-track betting parlors in the cities to accommodate players who could not attend the tracks. It was about this time that bookies became syndicated; the growth of their business created a need for financial support, improved last-minute information, and sophisticated methods of communication. It was through syndication that "wirerooms" became possible; these establishments provided bettors with a place where they could listen to up-to-the-minute changes, the actual running of races, announcement of the winners, and the payoff prices. Western Union facilities were used to wire information from the tracks to the wirerooms, which were equipped with telegraph tickers and, later, telephones. Antigambling sentiment forced the withdrawal of Western Union from its part in the operation, but its spot was quickly filled by privately owned wire services that soon established monopolies over racetrack and sports information services.

One of the most successful wire service operators was

Mont Tennes, a Chicago bookmaker. After Tennes came Moe Annenberg, who in the 1930's succeeded in establishing a complete monopoly over all racing and sports information. Annenberg used his monopoly to extract maximum profits from the bookmakers who were his customers. He not only charged high prices for information supplied by the national wire but eventually sent the information by code. The code could be deciphered only by purchasing the daily wall sheets published by his companies. Following the indictment in 1939 of Annenberg and his associates for tax evasion, organized crime figures began to take over the crucial wire services business. Associates of the old Capone gang in Chicago gained control of information service in that area. Elsewhere in the country, other ex-bootleggers began muscling in on this aspect of the business. Organized crime also gained a foothold in the bookmaking business by taking control of certain layoff operations.

Wire services and bookmaking parlors remained virtually untouched by law enforcement until the 1950's, when new Federal legislation succeeded in closing the parlors and forcing bookmakers to operate more clandestinely. This legislation, coupled with post-Kefauver prosecutions involving nonpayment of Federal excise and wagering stamp taxes, further augmented the Federal effort against this type of gambling and underscored the prevailing sentiment—which persists today—that the States by themselves are unable to deal adequately with the gambling problem due to a lack of money and manpower and the pervasiveness of gambling-related corruption in some local police departments.

HORSE BOOKMAKING TODAY. The basic information needed by both bookmaker and player is derived from a "scratch sheet," which provides such facts as jockeys, post positions, times of races, probable odds and handicappers' picks. Winning bets placed through a bookmaker are paid at the same payoff as at the track, with the bookmaker's profit deriving from that portion which, at the track, would go for expenses and taxes. As a rule, a horse bookmaker can gross 15 percent of his wagers and can net approximately 11 percent. As in sports betting, layoff facilities are utilized by a bookie who receives an excess of wagers on one horse. Depending on the odds, layoffs are made at the track itself, in the form of a large wager on the bookie's favored horse; this not only enables the bookmaker to use track winnings for making payoffs but reduces the amount of the track's potential payoff. (See chapter 5 on Parimutuel Wagering and Off-Track Betting for a discussion of the survey data regarding illegal horse bookmaking.)

SPORTS BOOKMAKING. In terms of gross volume of betting, sports wagering is today the number one form of illegal gambling in the United States. Sports bets, whether placed with a bookie or between social acquaintances, are most often placed on football, baseball, basketball, and hockey games, and, less frequently, on events such as prizefighting and golf. Sports bookmaking originated as a sideline; many horserace bookmakers accepted wagers on sporting events as a courtesy to their wealthy customers. It was not until radio and television began bringing sports contests to millions of Americans that this type of wagering began to dominate. Today, there are many sports bookmakers who accept horserace wagers only as a courtesy to their best customers.

The sports bookmaker has been defined as a "broker, bringing together [illegible] on both sides of a sports contest, hopefully in such a manner that the losers' money will be more than sufficient to cover payments to winners."[14] This balance is achieved through the handicapping process, and use of the "line" or point spread. The beginning line is quoted in whole figures, and indicates the actual expected difference in points scored between the teams. Half-points are utilized to move the line based on the amounts of money being wagered. The line itself consists of a number of points either subtracted from the favorite's anticipated score or added to the underdog's anticipated score. For example, if the Miami Dolphins are favored to win over the Baltimore Colts by one touchdown, the line is quoted as "Miami 6." Consequently, a wager on Miami would be a winning wager only if Miami won by seven or more points (i.e., the "6" is subtracted from Miami's final score).

During football season, the "early line" is posted every Tuesday in the legal sports books in Nevada; it is received shortly thereafter by illegal bookmakers who of necessity maintain interstate communications for this purpose. The line continues to fluctuate up until the beginning of the game, reflecting not only updated information about conditions pertinent to the team (i.e., weather conditions, player injuries, etc.) but also reflecting the status of the "action," or the bets placed. In fact, a major sports bookmaker will only move the line in response to the movement of money.

In order to balance his books, a bookmaker must make use of two methods: line changes and "layoffs." Line changes operate as follows: If a preponderance of wagers is being placed on Miami at 6, the line can be moved to 6½, thereby attracting more wagers to the opposing team. A bookmaker must move cautiously when changing a line, however, to avoid being "middled"—a situation wherein he would have to pay off both sides, since bets made with different point spreads would both have to be honored.

Laying off wagers is another method by which a bookmaker can achieve a balanced book. If Bookie A has an overabundance of wagers on one team, he can lay off by calling another bookmaker and placing the excess wager with Bookie B. Prior to the passage of Federal statutes prohibiting interstate wagering, layoff bookmaking was conducted to a large degree across State lines and, although those statutes served to break up most of the large interstate layoff businesses, many interstate telephone calls are still made for layoff purposes through increasingly devious methods in violation of Federal laws.

Some additional terminology utilized in sports wagering includes "off the board" and "in the circle." The former indicates that no wagers are being accepted on the particular sports contest; the latter indicates wagers are to be accepted with caution. These terms are generally utilized when there is a lack of information about critical players and their starting capability, or if the teams involved have already been eliminated from division playoffs.

Baseball wagering uses several lines, as follows. The line least favorable to the bettor, and therefore the one given by bookies to inexperienced players, is known as the "40-cent line." If the teams in a game are evenly rated the game is referred to as an "even-money" game or "pick-'em." However, a better does not place an even-money wager, the price quoted as to $100 is 110-100—that is, the bettor may choose either team, but he must wager $110 with the bookie to win $100. By accepting one bet on each side, the bookie receives $220; whichever side wins, the bettor choosing that side wins $210 and the bookie retains a $10 profit. In games that are unevenly matched—i.e., where one team is favored—the bookmaker simply varies the amount of money which a bettor must wager to win a specified amount. For example, if the Boston Red Sox are favored 8 to 5 over the New York Yankees, the bookmaker will quote the line as "40-80, Luis Tiant (pitcher)." Therefore, to wager on the Sox, a bettor puts up $180 to win $100 and to wager on the underdog requires a $140 bet to win $100. The $40 differential is known as the 40-cent line, and is the line generally quoted to the small bettor.

A heavier bettor may generally utilize the "20-cent line," which operates on a $20 differential; in the even-money example, $105-$100 is used instead of $110-$100. In the 8 to 5 example, the wager would be $160 to win $100 on the Red Sox and $140 to win $100 on the Yankees, quoted as "40-60, Tiant." The line being quoted in Las Vegas presently is the 20-cent line. All major bookmakers quote the line with the name of the pitcher, rather than the team, since that is the critical factor; if a bookmaker does quote teams, he is generally dealing the higher or 40-cent line and is handling inexperienced customers.

The more favorable "10-cent line" is quoted by larger bookies to heavy players or smaller bookies seeking layoff outlets, and operates on a $10 differential. The "5-cent" or "nickel" line, using a $5 differential, is generally only used between larger bookmakers attempting to utilize each other's layoff capabilities.

Regardless of the type of game being played, there are various types of wagers that can be placed. In addition to a straight bet on the anticipated winner, there is also a "parlay" bet, which is a wager on two or more teams, all of which must win for a bettor to collect; a "round robin," in which a wager is placed on three or more teams in combinations of two-team parlays; a "teaser," which is a parlay bet at a more favorable point spread with reduced winnings; and an "over and under" bet, where the wager is that the total scores of both teams will be over or under a stated figure. A further note regarding the jargon utilized by both bettor and bookie: Amounts of wagers are rarely stated in their actual terms. That is, the term "a dollar" is used to refer to a $100 bet, "a nickel" is $500, and "a dime" is a $1,000 bet.

As can be seen from the above discussion, sports wagering is an extremely sophisticated and complex form of gambling. Nonetheless, fewer persons need to be utilized in a bookmaking business than in a numbers business. This factor, combined with the extensive use of telephone communications, makes bookmaking a much less visible form of gambling and, until the fairly recent advent of electronic surveillance capabilities, much more difficult to control from a law enforcement standpoint.

The general format of a bookmaking business begins with a bettor utilizing either the telephone or a middleman to place his bet with a bookmaker. Middlemen generally work on a percentage basis, like the numbers runners. A large bookmaking operation may employ clerks to man telephones at different locations, in attempts to avoid electronic surveillances. Persons providing line service and layoff outlets are also necessary features of any bookmaking business, and the latter are generally contacted by telephone. Therefore, a telephone system of communication continues to be the most essential element of the sports wagering business. Without it, the larger businesses could not survive.

SPORTS CARD WAGERING. A variation of standard sports betting known as pool cards, sports cards, or parlay cards is attractive to the small bettor who, because of the low dollar volume of his bets, is rejected as a client by the sports bookie.

A pool card provides a complete listing of games with a given point spread for each weekend sports event (usually professional football games). Cards are printed at the beginning of each week for distribution no later than Tuesday; thus, the "line" in this type of wagering does not have the flexibility to reflect changes occurring later in the week. Furthermore, the line on a sports card never is quoted in half-points; a tie game results in a loss to the bettor. Distribution generally occurs through persons or places with ready access to the public; in fact, the operational elements of a sports card business more closely resemble those of a numbers business than of sports bookmaking.

Until shortly before game time, wagers are collected along with the bottom, or tearoff stub, of the card. As in numbers, runners are used as agents to pass out cards, collect wagers and stubs, and make payoffs to winners. A typical bet involves the selection of three or four teams; wins are determined on the basis of the printed point spread, and ties are considered losses. Law enforcement estimates of the average wager placed on this type of game are between $1 and $10.

PROFILE OF THE ILLEGAL SPORTS BETTOR. According to the Gambling Commission survey, the "typical" customer of illegal bookies resides in a Northeastern or North Central State, is a white male between the ages of 18 and 44, has a college degree or some college education, and earns more than $10,000 a year.

The average amount wagered per bettor is higher for sports betting than for any other form of gambling. Players are also uniquely firm in their loyalty to the illegal wager. Only 50 percent of those who currently bet with a bookie would be willing to move entirely to a legal system if one became available. The most important barrier to their accepting legalization appears to be the payment of income taxes on winnings.

Only [illegible] percent of the population favored legalization of betting on sports events with a bookie. Apparently some respondents reacted to the generally negative image of bookies rather than to the notion of legalized sports betting itself: When respondents were asked how they thought a system of sports betting should be run if it were made legal, a higher percentage felt that sports betting should be run by government employees (as opposed to government-regulated private business).

Attitudes were uniformly, but only slightly, more positive toward sports card betting than betting with bookies. Thirty-two percent favored legalization of these. As with most forms of gambling there were sharp regional differences, with the South markedly more negative toward it than other regions.

Sports bettors in general and illegal sports bettors in particular are far more likely to attend sports events than other groups. Moreover, sports bettors indicated that the presence of legal sports betting would not be likely to change their attendance patterns.

Given the American passion for sports, it is interesting to note that betting on sports did not rate particularly high on a list of gambling forms rated for their excitement. The general population rated betting on sports with friends as 6th on a list of 15 and betting with a sports bookmaker as 12th. Even among those who bet with a bookie, gambling with bookies rated 12th, very much below betting with friends. These ratings support the general finding of the survey that the excitement of a gambling form depends on the degree of social interaction associated with it.

Respondents perceived all sports as generally honest. High school sports events were seen as the least likely of 10 betting events to be fixed. College sports events were also rated as very unlikely to be fixed; professional sports were rated as number 5 on the list of 10. As is the case with most forms of betting, persons who bet on a particular type of sports event rated it as even more honest than the other types.

Respondents [illegible] greater danger of corruption of sports events when betting is legalized than they did with legalization of any other kind of gambling.

THE GAMES: ILLEGAL CASINOS[15]

Casino games were introduced in this country by early European settlers who were accustomed to the plush gaming parlors found in Western Europe. As stated above, the first formal casino in the United States opened in New Orleans in 1827. It soon flourished and became the model for other such "carpet joints," as the lavishly decorated casinos were called. Establishments catering to the lower classes were called "sawdust joints."

In the East, the first casinos were built in Saratoga, New York and on the east coast of Florida. These early casinos were generally operated by independent entrepreneurs; syndication came later. With the repeal of prohibition in 1933, former bootleggers developed a renewed interest in gambling ventures. During the 1930's, illegal casinos were established in every major city. The most well known were those in Newport and Covington, Ky., Hot Springs, Ark., and along the east coast of Florida.

In 1950, the Kefauver committee investigations widely brought national attention to the existence of many types of illegal gambling endeavors, including illegal casinos. The investigations spurred decisive action by local law enforcement officials and politicians eager to protect their reputations and political futures. Most of the illegal casinos were either forced to close or were driven underground. Most of those that remained were eliminated in the early 1960's following the passage of a series of Federal statutes dealing with interstate gambling violations.

The success of these statutes notwithstanding, a few small illegal casinos are still known to exist. Called "flat stores," these establishments handle a relatively small volume of business compared to their predecessors and generally offer only blackjack and dice games. Because they operate without bulky equipment, their location may be hastily changed if necessary. Since the games at illegal casinos often are operated dishonestly, the preferred customers are those with limited gambling experience.

The recent "rediscovery" of the ancient game of backgammon has attracted the attention of professional gamblers as well. Backgammon tournaments, although legitimately sponsored and legally operated, provide the opportunity for large wagers to be made on the side. Like pool and poker, backgammon has its share of skillful hustlers who win great sums of money from their unsuspecting opponents.

CONCLUSIONS AND RECOMMENDATIONS

The Sports Betting Controversy

The Commission's recommendations concerning illegal forms of gambling center upon sports card betting and sports-by-event betting. Numbers and off-track horserace wagering are legal in certain States, and discussions of these forms of gambling appear in chapter 5.

In terms of gross volume, sports card wagering is a considerably less lucrative illegal venture than sports-by-event betting. Yet it is a form of gambling indulged in by many people, a substantial number of whom do not know it is illegal. The amount of money wagered per card is small. Such wagering should be an easy game for a State to operate, control, and regulate.

In contrast, sports-by-event wagering, if run by a State, entails enormous problems. It is assumed that proponents of this form of gambling legalization would stress the same justifications for it that have been espoused by proponents of other forms of legalized gambling—i.e., the raising of revenue and the combating of organized crime.

Sports wagering, however, falls considerably below other types of wagering in terms of the revenue it produces for the operator. The takeout (money retained by the operator) presently in effect in the illegal marketplace averages 4.6 percent; the survey conducted by this Commission estimated that the optimal takeout in legal sports betting would be 7 percent—that is, 7 percent is the maximum takeout sports bettors would tolerate before returning to the higher payouts offered by the illegal game. Obviously, the ability of a legal game to compete with its illegal counterpart is critical to its success, but in sports betting the legal game has serious disadvantages. Even assuming a change in Federal tax policies (as the Commission recommends in chapter 2), there remain the issues of telephone betting and extension of credit. Additionally, the relatively high administrative costs inherent in State-operated gambling operations must be considered. These costs would preclude such incentives as the extension of credit. Furthermore, it is difficult to see how a State could efficiently operate any kind of layoff system. There is also competition from social wagering—wagering with a friend or through an office pool. These issues are important not only to those seeking effective revenue-raising methods: They are even more important to those who view legalization of sports betting as an attack on organized crime.

Law enforcement authorities maintain that illegal gambling provides the largest single source of revenue to organized crime. Law enforcement authorities use the term "organized crime" in its broadest sense, rather than the narrow definition adopted by the Commission. Proponents of legalized sports betting argue that legalization would draw customers away from the illegal business, thereby decreasing the revenue supplied to the criminal element. However, the critical factor once again becomes the legal game's ability to compete. Even Nevada's State-licensed bookmakers are unable to compete with their illegal counterparts because of the existing tax structure: The Federal excise tax, if passed on to the players, causes them to turn to the illegal books; if it is absorbed by the legal bookie, he may find himself unable to make a profit. In addition, taxation of the winnings as income acts as a disincentive to deal with the legal operation. Another argument against licensing of bookmakers could be made on the grounds that criminal elements would involve themselves in the legal operation, either by exacting tribute from the legal bookies or by providing increased illegal competition in States with legalized bookmaking, where a new market for gambling may be created by the legal game.

The commissioners of professional sports and the directors of amateur athletic associations testified before the Commission on the subject of sports betting.[16] They are vehemently and unanimously opposed to any form of legalization of sports betting, including sports cards. Their primary objection is that legalization of wagering would alter the character and ultimately the integrity of the sporting event. It would do so, they claim, by redirecting the interest of the fans from the physical conduct of the game to their monetary stake on the outcome. The point spread, rather than a win, would be the more important factor to a fan who had made a large wager. Other serious concerns expressed by the athletics spokesmen involve potential betting by players and the possibility of attempted fixes. Still another concern is that legal betting may appear to affect (or perhaps actually affect) player performance: An athlete who drops a pass (or misses a basket, or strikes out, etc.) may be accused by the betting fan of having been bribed to do so deliberately in order to meet (or exceed) the point spread on a game.

While the Commission recognizes the desire of professional and amateur sports leagues to keep their games free from even the appearance of scandal, it is clear that—given the intensity of illegal wagering that exists today, primarily on professional football—all of the concerns noted above already exist today.

The likelihood that a legal betting system would give rise to an attempted "fix" more readily than an illegal betting system does not appear to the Commission to be a reasonable assumption. The position of the sports industry seems to be that these problems are controllable with illegal wagering but would skyrocket with legalization of wagering; the Commission sees no basis for that prognosis.

Furthermore, despite its vocal opposition to legalized sports wagering, the sports industry has not assumed its proper role of leadership in controlling peripheral activities that enhance illegal wagering. For example, much of the pregame discussion by sports personalities and broadcasters deals with forecasting the outcome, the point spread, weather conditions, injury reports, and other factors that might influence the outcome. Surely this does not discourage or turn away the attention of a bettor with an illegal wager at stake.

Despite these inconsistencies in the sports industry's announced position, the Commission does not favor legalization of sports-by-event wagering. Certain other arguments dictate the opposite position.

One issue that appropriately has been raised by the professional leagues regards their proprietary interest in their multimillion-dollar product and the fear that this product may be purloined by individual States without any obvious attempt at remuneration. The Commission leaves to the courts the solution to this substantial controversy and notes only that Congress may be faced with devising a national solution in the future. Certainly one can imagine the present multi-State system of franchises being judged as being of sufficient national concern to merit further congressional attention.

However, one issue that the Commission considered to be a major concern and of particular interest to the sports industry was only implied in testimony by industry witnesses—that is, the danger that legalized sports betting would cause a State government to become a partner in the operation of the game itself. This becomes clear from an examination of other sporting events in which the State has become involved. States license gambling events, such as horseracing, and because the granting of licenses is considered a privilege, States claim the right to tax and regulate gambling licensees as they see fit. Understandably, sports teams do not want to find themselves eventually falling within this category of "privileged" licensees. Based on experience with other forms of licensed gambling, one can envision a situation in which athletes are subjected to pregame or postgame drug testing (as horses and dogs are) so that the betting public can be assured that no unfair methods are being used by one team or individual to gain a competitive advantage. Perhaps, too, athletes themselves would be licensed, as jockeys currently are, and State stewards required to be present at every game to act as referees and review controversial plays. Certainly the sports community is not ready to accept this type of transformation, and the Commission believes that most sports fans—bettors and nonbettors alike, as well as the overwhelming majority of the American public—would find it unacceptable as well.

Although it has been the Commission's consistent belief that each State should be permitted to make its own determination by voter referenda as to legalization of all other forms of gambling, the Commission feels that States should not undertake any kind of legal sports wagering, given existing Federal tax policies. In addition, even if those tax policies should be changed in response to this or other studies, the Commission believes that there has been inadequate debate on the subject of legal sports betting and, clearly, inadequate opportunity for the voting public to acquaint itself with the issues and develop an informed opinion.

The same is true regarding sports card wagering, also known as sports pools. Although the Commission accepts the U.S. Department of Justice's unofficial categorization of a sports pool as a lottery (consistent with the discussion in chapter 5), it does not believe that voter ratification of a traditionally designed lottery implies automatic acceptance of a sports pool. The Commission believes the sports pool issue should be debated and voted upon separately. This is not to say that the institution of each new game by an existing lottery need be voted upon; the question of separate referenda should of necessity be one of good faith, coming into play only when there is a change in the basic nature of the game.

If the Commission's views on this point are not accepted, however, and legalization of sports wagering becomes a reality, the Commission strongly recommends that there be an absolute prohibition against the inclusion of wagering on amateur sporting events in such legalization. While the Commission recognizes that some amateur events already are the objects of illegal wagering nationwide, it cannot condone the utilization for wagering purposes of educational institutions and similar organizations dedicated to the improvement of youth.

This opinion is in part predicated on the fact that young athletes of high school and college age are far more impressionable and therefore are in greater danger of being subjected to the temptations of player corruption. Additionally, unlike professional sports leagues, particularly the NFL, amateur athletic associations do not have enforcement or investigative capabilities which would enable them to maintain sufficient safeguards.

In summary, the Commission has reached the following conclusions regarding the legalization of sports betting:

- The potential for raising revenue is much lower in single-event sports betting than in other types of wagering, due to the low takeout. Any attempt by a State to raise the takeout rate above that used by illegal bookmakers would drastically reduce the ability of the legal game to compete with its illegal counterpart.
- Competitive elements such as extension of credit and telephone betting could not readily be provided by a State-run bookmaking operation.
- Existing Federal tax policies constitute the largest single obstacle to a competitive sports bookmaking operation.
- The fears expressed by the various commissioners of professional sports regarding the increased potential for fixes, player betting, and change in the integrity of the sporting events in the event of legalized sports betting are exaggerated in view of the extensive amount of illegal wagering already taking place today on professional team sports.
- There is a real danger that a legalized sports wagering system would bring with it substantially increased government involvement in what today is an essentially self-regulating private industry.
- Team owners have a legitimate proprietary interest in their sports, and the courts must determine whether a legal sports betting system violates this interest.

In view of the above findings, the Commission recommends the following:

States should not undertake the legalization of single-event sports wagering under the present structure of Federal taxes. However, even if tax policies are amended consistent with the Commission's recommendations in chapter 2, **the Commission believes that the issue of legalized wagering on sports events should be the subject of extensive debate to allow the voting public to form an educated opinion.** In the event that a State does legalize sports wagering **it should incorporate into its enabling legislation a prohibition against wagering on amateur sporting events.** Although the Commission makes no specific recommendation against sports card wagering, **it believes that States choosing to institute this form of wagering should do so only following a voter referendum and not merely as an addendum to an existing lottery.**

FOOTNOTES

[1] Charetz, Henry, *Play the Devil* (New York, Clarkson N. Potter, 1960), p. 18.

[2] Asbury, Herbert, *Sucker's Progress* (Montclair, N. J., Patterson Smith, 1969), p. 211.

[3] Ibid., p. 290.

[4] For a discussion on the relationship between bootlegging and gambling, see Haller, Mark, "Bootleggers and American Gambling," contained in a separate appendix volume.

[5] Katcher, Leo, *The Big Bankroll: The Life and Times of Arnold Rothstein* (New Rochelle, N. Y., Arlington House, 1958), p. 9.

[6] U.S. Senate Committee to Investigate Organized Crime in Interstate Commerce.

[7] U.S. Senate Hearings on Organized Crime and Illicit Traffic in Narcotics.

[8] Testimony of Frederick C. Fehl, Acting Assistant Director, Federal Bureau of Investigation, May 10, 1976.

[9] Blakey, G. Robert, "Concurrence," in *Report of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance* (Government Printing Office, 1976), pp. 190-192.

[10] Hearings were held in Boston (April 9-11, 1975), Philadelphia (May 28-29, 1975), Detroit (June 24-26, 1975), Las Vegas and Carson City (April 18-21, 1975), Phoenix (August 22, 1975), Chicago (September 23-24, 1975), Miami (November 24-25, 1975), and Cleveland (January 16, 1976).

[11] This section and the historical section on bookmaking have been excerpted and edited from Haller, op. cit.

[12] See chapter 3 for a discussion of the problems of illegal gambling and police corruption. In additon, the appendix contains two papers on the subject of gambling corruption: "Gambling-Related Corruption," by Carol Duncan, and "Gambling Enforcement and Police Corruption," by Jonathan Rubenstein.

[13] The material describing the mechanics of numbers and horse and sports bookmaking is based on confidential information provided to the Commission by illegal gambling operators who requested to remain anonymous.

[14] FBI definition in "Gambling Technology."

[15] Scarne, John, *Scarne's New Complete Guide to Gambling* (New York, Simon and Schuster, 1974), pp. 226-241.

[16] The Commission heard testimony on February 19 and 20, 1975, from officials of the National Football League, Major League Baseball, the National Hockey League, the National Basketball Association, the National Collegiate Athletic Association, and the National Junior College Athletic Association.

SEPARATE VIEWS

STATEMENT OF SENATOR JOHN L. McCLELLAN

The Commission on the Review of the National Policy Toward Gambling, created by Congress in Title VIII of the Organized Crime Control Act of 1970, has concluded its three years of study on the subject of gambling in the United States. The Commission was charged with the duty to:

> . . . conduct a comprehensive legal and factual study of gambling in the United States and existing Federal, State, and local policy and practices with respect to legal prohibition and taxation of gambling activities and to formulate and propose such changes in those policies and practices as the Commission may deem appropriate

The task has now been completed on this complex subject which evokes strong feelings and varying viewpoints from important segments of our society.

I personally question the wisdom of the trend in this country toward legalizing big business gambling operations—whether conducted by State agencies or private parties under State regulation. On the other hand, I completely agree with the conclusion of the Commission that gambling policy is a matter best left to the individual States to determine for themselves within their borders, and that Federal involvement should generally be limited (1) to preventing one State from imposing its gambling policies on another State and (2) to dealing with matters of obvious national concern, such as organized crime or large-scale illegal gambling.

On the whole I believe this report makes an important contribution to the body of knowledge and reasoned policy choices with respect to gambling to be considered by the people of the United States and their governmental representatives. As with any detailed report reflecting the consensus of persons with varying points of view, I have reservations about some of the conclusions and recommendations of the Commission.

For example, although it is probably inevitable in a report of this type, most of the considerations and recommendations follow a pragmatic approach to gambling policy without much emphasis upon the moral and social implications and traditions of this country. These are judgments that must be left to the legislative bodies. I believe the States should and will consider these implications and traditions for their own people as they develop their policies toward gambling.

In addition, I cannot support the Commission's recommendation that legitimate gambling operations be given a favored tax treatment over income derived through other labors. My position comes from a real skepticism about the proposition that the war against illegal gambling can be successfully waged by increased legalized gambling and my feeling that traditional work values in this country will not tolerate elevating gambling activities to an advantage position over income earned by honest endeavor. In my judgment, the way to minimize illegal gambling is for the government to vigorously prosecute those who violate the law, and for the judges to impose significant sentences that will be calculated to deter the crime rather than make the penalty so low that it can simply be chalked up as a cost of doing business.

Moreover, I believe there may well be a Federal role in regulating, and perhaps minimizing, large-scale interstate or multistate gambling operations regardless of the internal policies of the individual States. I do not see this as a violation of the principle that States should be permitted to determine their own gambling policy within their own borders. Consequently, the Commission's critical comment on the current law limitation on lottery-related mailings to addresses within the borders of the State conducting the lottery and comments on H.R. 14071, introduced in the 94th Congress, to prevent interstate wagering are directed at issues that cannot, in my judgment, be summarily resolved against Federal involvement by simply invoking the State-dominance principle.

Similarly, I have reservations with respect to the Commission's recommendation that a Federal statute be enacted to expressly grant to States the power to regulate gambling within their borders—a power they already have consistent with Federal statutes and the Constitution. If the courts should unduly restrict State gambling policies under the commerce clause of the Constitution, the Congress can act on a knowledgeable basis with respect to the interstate commerce implication then involved.

The Commission report uses the term "organized crime" or similar phrases throughout, particularly as a basis for Federal involvement in gambling regulations, but seems in chapter 6 to limit this term to the "national syndicate of Sicilian origin, providing many types of illegal services and having international ties, known generally as the Mafia or La Cosa Nostra". While the Sicilian model may be the most notorious form of organized crime, this definition is much too narrow for the practical application of organized crime controls in the field of gambling and other illegal activities. The Commission recognizes as much in specifically approving Federal intervention to control illegal gambling cartels and syndicates which systematically use corruption and violence to further their objectives. In many contexts in the report a broader definition of "organized crime" is obviously intended and the term should be read in that light. I regret that the majority report in chapter 6 has been written in this limited form and in such a way that it invites possible misunderstanding and erroneous interpretation. The Commission notes its belief that members of Congress used the phrase to mean the Mafia. I would only add that in none of the hearings or in the processing of legislation in which I have been involved has the term been used in this circumscribed fashion.

In summary, I would reiterate that this report adds much to our knowledge of a complex socioeconomic issue. I am of the opinion that we should leave general policymaking to the individual States, and that on the Federal level, we should refrain from legislating in the area except in instances where one State's gambling policies are likely to infringe upon those of another State, and where identifiable national interests with regard to gambling issues need protection.

STATEMENT OF REPRESENTATIVES SAM STEIGER AND CHARLES E. WIGGINS

The Organized Crime Control Act of 1970 (P.L. 91-452) which was enacted "to seek the eradication of organized crime in the United States" contains twelve titles, one of which authorized the creation of this Commission. The duties of the Commission are broadly drawn and include the study of gambling and the review of laws and governmental policies relevant to gambling. The concluding duty is to prepare a report to the President and the Congress which shall contain findings and recommendations.

After years of activity and expenditure of millions of dollars, the Report is now produced. It deserves careful study by the Congress, and by State legislatures which have primary regulatory authority over most of the Nation's gambling activity.

We cannot join in the Report of the Gambling Commission, however, because of our disagreement with some of its findings and recommendations.

The Report is replete with statements, evaluations, conclusions, and findings attributed to the Commission, all of which are recited as if each were a fact. In fact, these declarations are the opinions of the Commission staff which drafted the Report and may or may not reflect the view of individual Commissioners. We have no quarrel with this method of exposition. Many of these statements and conclusions are supportable by evidence and are facts. However, we cannot endorse the accuracy of everything here. For example, it is written in chapter 5 that the Commission "found" that the influence of organized crime in Nevada is "negligible" compared to what ever it was fifteen years ago. This finding and many others herein are nothing more than educated guesses.

The Report contains a good number of recommendations to State governments and the Federal Congress for changes in the laws and policies relating to gambling. We are confident that the Committees of the Federal Congress with the appropriate jurisdiction will consider these recommendations on their merits. However, we feel constrained to say that some and especially those relating to Federal tax law have little merit.

Although we have, by these views, disassociated ourselves from some of the conclusions contained in the Report, it remains, on the whole, a potentially useful document. Whether the expenditure by the Commission of considerable effort and, we believe, an unnecessary amount of money, will in the final analysis be justified, depends upon the use to which the Report is put. Of this we are sure: it should not be assigned to a library shelf to collect dust.

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☆ U.S. GOVERNMENT PRINTING OFFICE 1978—253-162

Mr. HYDE. I thank you very much, Mr. Fahrenkopf.

We have a quorum call to be followed by a 10-minute closing speech by the Speaker on the defense appropriation conference committee bill, then there will be a vote, and then we are free to return. Is that correct?

So after the vote, which will come 10 minutes after this quorum call is over—and that takes 15 minutes—we will be back.

I really apologize. It is an institutional hazard here that when we have hearings on the days we meet on the floor, and you have been terribly patient. An important subject. What you have to say will get attention, is getting attention. So if I may impose on you further, we will be back after the vote, the second vote—the next vote, which will come in 15 minutes.

[Recess.]

Mr. HYDE. The committee will come to order.

I apologize to the panel. We have had some very important votes just previously on the defense appropriation conference report, and they are—we are waiting now for the Senate to do something on the continuing resolution as it affects Bosnia and sending troops. So we are scattered to the winds.

But I just want to assure the panel that their statements will be made a part of the record and they will be studied by staff and certainly myself and other Members. So in the spirit of trying to liberate you as quickly as I can, Mr. Fahrenkopf, did you have anything more you wanted to add?

Mr. FAHRENKOPF. I finished, Mr. Chairman. Thank you very much.

Mr. HYDE. Thank you very much.

Tom Grey, executive director of the National Coalition Against Legalized Gambling.

Mr. Grey.

STATEMENT OF TOM GREY, EXECUTIVE DIRECTOR, NATIONAL COALITION AGAINST LEGALIZED GAMBLING

Mr. GREY. Chairman Hyde, members of the Judiciary Committee, it is really ironic that I am going to get more time speaking here than I got in my own county, Jo Daviess County, IL, prior to placing of a riverboat into that county. So I appreciate being here.

It is really my honor and privilege to speak on behalf of the National Coalition Against Legalized Gambling. We are a relatively new player in this high-stakes poker game that is going on here in America. We are people who I would like to introduce. First and foremost, we are concerned citizens. We are a coalition of concerned citizens. And I would like to introduce that coalition somewhat by saying, in Illinois, we have the Americans for Democratic Action, the Christian Coalition, and the State NAACP. And if you can see the ADA and the Christian Coalition together at a press conference, you know you can stick anyone from any political persuasion between them.

We also cross what I call a values construct. In Bridgeport, CT, we had gays and lesbians meeting with James Dobson's Focus on the Family people trying to figure out a way to keep Steve Wynn out of Bridgeport, and I thought that was a very interesting combination of people that were talking about quality of life.

Finally, we are a combat-tested coalition of citizens. We have won 18 States and lost 2 in 1994 and 1995. We have won eight States at the ballot box, three by court case and seven by legislatively stopping expansion of gambling bills coming up. We have done that.

I want to put a face on who we are. Laura Rosse, with her son on her back, won the battle of Bennington, VT. Arlene Hersher and Tori on rollerblades won the battle of Pomona, CA, against a card room coming in. We had the Fighting Dominicans in Illinois that worked on lobbying the legislature. They have been fighting gambling since 1496.

We have senior citizens, who include Beth Paschall in Palos Heights; and my own father, Bud Grey who stood up in Arlington Heights and fought. JoDean Joy had a showdown with Kevin Costner in South Dakota, and outdrew him.

I got Don Mottley down in Evansville, IN, a single person that tied up Aztar Corp. for 8 months, trying to save a park, and they haven't been able to open that riverboat.

These are the people that I am here speaking for. They are the credibility that I try to convey to you. These are citizens that have said our communities have been attacked. And the Economist magazine called us picket fence activists. We meet them at the picket fences. That is truly the story of the national coalition.

Now let me say that we have won these not because we have said to people thou shalt not gamble, because we know 8 out of 10 people gamble in some form or another, whether it be the penny-ante poker game, or a lottery ticket when the jackpot is over $40 million. We have won by saying it is not good economics, it is not good politics, and it is not good for the quality of life. Whether you gamble or not is your choice.

If we could trust local and State government, then perhaps we would not have had to be here. I am pleased that you heard us and that you are allowing this debate to begin, and we welcome the debate. I think this is truly the first round, and we will welcome debating Mr. Fahrenkopf in the future over the future of America.

Thank you.

[The prepared statement of Mr. Grey follows:]

Prepared Statement of Tom Grey, Executive Director, National Coalition Against Legalized Gambling

Chairman Hyde and distinguished Members of the Committee:

A battle is raging across our country. Ambitious gambling promoters have been invited into our communities by some state and local officials under the guise of prosperity, economic development, jobs, and a painless new source of government revenue.

Armed with unlimited capital and hidden political connections, these gambling promoters insist that gambling is productive, that it meets the desires of the public, and that the growth of gambling throughout America is inevitable. They pledge that by the year 2000, every American will live within a two-hour drive of a gambling casino.

Ladies and gentlemen, these gambling interests are wrong.

The recent, rapid spread of gambling was never the result of a popular movement. Rather, it was driven by self-interested gambling pitchmen with money, high-priced lobbyists, and pie-in-the-sky promises. Cash-starved municipalities and legislatures, eager for a way to increase revenue while avoiding voter backlash, were vulnerable to the prospect of something-for-nothing.

Individual citizens questioned whether this "free lunch" program could rationally achieve its promise. And as the guarantees of economic prosperity evaporated, state and local groups spontaneously sprang up across the nation to oppose the further spread of gambling. In 1994, these varied citizen groups created the National Coalition Against Legalized Gambling (NCALG).

2376 Lakeside Drive, Birmingham, AL 35244
National Information Center 800-664-2680

What is the National Coalition Against Legalized Gambling

NCALG is a grassroots movement. Our members span the entire political spectrum from conservative to liberal. Our coalition encompasses both business and labor, both religious and secular, with concerned citizens in every state.

Our arguments against the expansion of legalized gambling are based on public policy, sound economics, and quality of life within our communities, not on personal morality.

I have attached to my written testimony references to objective, academic studies showing that the expansion of gambling is bad for families and businesses. These studies show that:

- gambling enterprises cost more jobs than they create;
- gambling misdirects prudent government investment away from sound economic development strategies;
- gambling sucks revenues from local economies;
- gambling establishments tend to attract crime; and
- gambling addiction destroys individuals, undermines families, and weakens our business community.

If the members of NCALG were to base our opposition to gambling on personal morality, we would lose in the political arena. After all, a majority of Americans gamble. But because our arguments are based on cold, hard facts, our organization and its affiliates have consistently beaten the gambling interests on ballot questions and in state legislatures over the past year -- winning fifteen major battles and only narrowly losing the remaining two.

Turning the political tide

In November 1994, the issue of gambling was on more state ballots than any other issue. Of ten statewide referenda, NCALG won six at the ballot box (Colorado, Florida, Minnesota, Oklahoma, Rhode Island and Wyoming) and two in the courts (Arkansas and New Mexico). Most of our victories were by landslide margins.

After their November debacle, the casino companies targeted legislatures in seven states. But this year we completely shut them out. The casinos lost major battles in Alabama, Illinois, Maryland, Pennsylvania, Texas, Virginia and West Virginia.

Virginia illustrates the dynamics of the current gambling debate. In Richmond this year, over a dozen casino companies pushed to legalize riverboat gambling. They hired more than 50 lobbyists, bought newspaper ads, and even aired television commercials. While the casinos spent over $800,000 on direct lobbying in Richmond and millions more on indirect lobbying across the state, thousands of citizens, armed with the facts, mobilized at the grassroots level against the casinos. When the smoke cleared, the gambling bill was crushed in committee.

The political tide has turned. What had been forecast as inevitable has now become undesirable. But why?

The tide turned not simply because all of the major conservative Christian groups oppose the expansion of gambling, although they do. It is not simply because mainline churches -- liberal, conservative and moderate -- are almost universally opposed to more gambling, although they are. Resistance to government-sponsored gambling is growing because voters from every walk of life recognize that legalized gambling is, based on the facts, poor public policy.

Gambling feeds voter cynicism

For the past three years, I have traveled across the nation and talked to countless thousands of Americans about this issue. You know that voters are angry and cynical about government. Let me tell you, the expansion of legalized gambling has fed that anger and cynicism.

To many Americans, government's promotion of gambling is a cop-out and a double-cross. We see public officials sacrificing our communities to a predatory enterprise -- for money. Citizens see government living off gambling profits, taken from the poorest and weakest of our citizens, instead of facing up to rational choices regarding budgets and taxes.

We see massive amounts of money pumped into pro-gambling lobbying efforts. Public officials have been answering to these outside monied interests while ignoring the voices of their own constituents. This leaves citizens to wonder who government really represents.

Worse, people see scandals like the one unfolding in Louisiana, where lawmakers are being investigated for taking bribes from gambling promoters. The payoff was made not merely to usher in gambling, but to prevent a voters' referendum to keep gambling out.

When the right of the people to be heard is bought and sold, we become convinced that the bedrock foundation of democracy -- a government of the people -- is under attack.

Now, I believe strongly in democracy. I fought for it as an infantry Captain in Vietnam, and I continue to protect it as an active member of the Army Reserve. But in order for democracy to work, you as elected officials have to win back the trust of average citizens. And you can start here.

Enact H.R. 497

H.R. 497 is a very modest measure. Twenty years ago -- when the contagion of casino gambling was quarantined to two geographic areas -- a federal commission conducted a study of legalized gambling. An enormous amount has changed since then -- the contagion has spread. It's time for a fresh inquiry.

The National Coalition Against Legalized Gambling supports H.R. 497, as well as S. 704, because we believe that a national study will allow citizens to make an informed decision about the expansion of gambling in America.

And frankly, we are astonished by the opposition to this bill by the American Gaming Association. If they believe that the spread of gambling enhances our national economy, then what is it about an objective study that makes them afraid?

When everyone is fully informed, we're glad to let this issue be decided the good, old-fashioned American way, at the ballot box.

Mr. Chairman, thank you.

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LEGALIZED GAMBLING HAS RAPIDLY EXPANDED

With gross revenues now exceeding $30 billion per year, legalized gambling is one of the fastest growing industries in the United States.

High-stakes gambling used to be largely confined to Nevada and Atlantic City, New Jersey. But just since 1988, 19 new states have legalized commercial gambling casinos. There are now over 500 legal casinos in the U.S., more than double the number there were five years ago. Ten states have recently legalized video slot and/or poker machines at racetracks and literally thousands of bars. Altogether, 48 states now permit some type of legal gambling.

One could say that gambling has become the new national pastime. In 1993, Americans made more trips to casinos than they did to Major League ballparks. If the trend continues (as the gambling industry expects), by the year 2000 there will be a casino within a 3-4 hour drive of nearly every person in the country.

Gambling interests are pushing for expansion.

Right now, gambling interests are pushing for expansion. During the next fourteen months, it is expected that:

- The casino companies will propose state legislation to legalize or expand casino gambling in Alabama, Alaska, Arkansas, California, Colorado, Florida, Hawaii, Illinois, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Mexico, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia.

- The gambling entrepreneurs will try to legalize interactive gambling on cable television and/or on the Internet, so everyone can wager from their homes.

- The gambling enterprise, in an effort to influence federal and state legislation, will become one of the biggest contributors to political campaigns in the nation.

The pro-gambling initiatives must be stopped before our nation's economy, and its social fabric, are irreparably harmed.

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GAMBLING IS BAD FOR BUSINESS

The expansion of legalized gambling is a major threat to business in the United States. The gambling enterprise cannibalizes existing businesses, stealing their customers and revenues. At the same time, gambling establishments bring new social costs that are inevitably paid by business.

Cannibalization in Atlantic City:

In Atlantic City, casinos were legalized in 1976. Four years later, the number of retail businesses in the city had declined by one-third. The number of restaurants in Atlantic City declined from 243 in 1977, the year after casinos were legalized, to 146 in 1987. Only about 10% of the businesses nearest to the casino locations in 1976 are still open today. Instead, just off the beach, there are dozens of pawn shops for losing gamblers to sell their jewelry for cash.

Cannibalization in Minnesota:

In Minnesota, where Indian casinos are found across the state, restaurant business has fallen by 20% to 50% within a 30-mile radius of casinos with food service.

Cannibalization in South Dakota:

A study conducted for the State of South Dakota found that, after casino gambling was legalized in 1989 within the town of Deadwood, business declined significantly at nearby restaurants, clothing stores, recreation services, business services, and auto dealers. Within two years, legalized gambling constituted one of the leading causes of business and personal bankruptcies among South Dakota residents.

Gambling leads to lower employee productivity:

According to professor John Warren Kindt: "Traditional businesses in communities which initiate legalized gambling activities can anticipate increased personnel costs due to increased job absenteeism and declining productivity. The best blue-collar and white-collar workers, Type-A personalities, are the most likely to become pathological gamblers. A business with 1,000 workers can anticipate increased personnel costs of $500,000 or more per year -- simply by having various forms of legalized gambling activities accessible to its workers."

What the experts say: Gambling revenues come at the expense of business.

"People will spend a tremendous amount of money in casinos, money that they would normally spend on buying a refrigerator or a new car. Local businesses will suffer because they'll lose customer dollars to the casinos." ***Donald Trump, casino owner, told to the Miami Herald.***

"The riverboats don't necessarily stimulate demand for entertainment; they replace something else...$100 slipped into a slot machine is $100 that won't be spent on dining out or a movie, not money that would have gone into a savings account." ***Margo Vigrola, Entertainment Analyst for Salomon Brothers.***

"New gambling ventures have negative effects on existing economies, many of which are already very fragile, by diverting a huge portion of discretionary consumer dollars. This process of cannibalization is most pronounced in the restaurant and entertainment industries, movie theaters and sports events, but it is also felt in other sectors of the economy such as clothing and furniture sales." ***Professor Robert Goodman, author of the United States Gambling Study, sponsored by the Ford Foundation.***

"Get it straight...there is no reason on earth for any of you to expect for more than one second that just because there are people here, they're going to run into your store, or restaurant, or bar...It is illogical to expect that people who won't come to Bridgeport and go to your restaurant or your store today will go to your restaurants and stores just because we happen to build this [casino] here." ***Steve Wynn, casino owner, told to small businessmen in Connecticut.***

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GAMBLING ESTABLISHMENTS ATTRACT CRIME

Last year when their state was considering legalized casino gambling, the Florida Department of Law Enforcement, Florida Sheriffs Association and Florida Police Chiefs Association issued a joint report which concluded, "Casino gambling will mean...that crime rates will go up. It means the community will see--and have to confront--more vagrants, prostitutes, domestic violence, and gambling addiction. It means our communities will be less safe and secure." Why that conclusion?

Gambling attracts street criminals:

Violent criminals target the patrons of gambling establishments, because they tend to carry cash. Loan sharks and prostitutes follow gambling, and do a brisk business.

Pathological gamblers feed their addiction:

The American Insurance Institute estimates that 40% of all white-collar crime is caused by those who have serious gambling problems. Pathological gamblers tend to engage in forgery, theft, embezzlement and property crimes to pay off gambling debts. They are responsible for an estimated $1.3 billion worth of insurance-related fraud per year.

Organized crime infiltrates legal gambling:

According to a study by the Better Government Association of Chicago, "Law enforcement officials agree that the mob usually infiltrates ancillary services to the casinos. New Jersey law enforcement officials believe that organized crime has infiltrated legitimate businesses such as those which provide the casinos with ancillary services including limousines, linen, meat, and vending machines." The investigation and prosecution of John Gotti uncovered some of the mob's casino-related enterprises.

State and local governments pay the price for this crime:

Increased crime costs state and local governments not only the salaries of more police officers, but prosecutors, judges, court personnel, court facilities, and prisons. The State of Florida's Office of Planning and Budgeting estimated that if casinos were legalized "incarceration and supervision costs alone for problem gambler criminal incidents could cost Florida residents $6.08 billion. And that doesn't even begin to count the costs to the victims of crime.

Gambling Establishments Attract Crime
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Increased crime in Atlantic City.

In the first three years of legalized casino gambling in Atlantic City, that city went from 50th in the country in per capita crime to 1st. Atlantic City's crime rate rose an incredible 230% during those three years, even though the city's population decreased 20% during the same period. A dozen years after casino gambling began, the city's police budget had tripled.

Increased crime in South Dakota.

Casino gambling was legalized in Deadwood, South Dakota in late 1989. The local state's attorney reported that, after three years: felony crimes increased by 40%, child abuse was up 42%, domestic violence and assaults rose 80%. Police costs doubled.

Increased crime in Mississippi.

According to the Chief of Police in Gulfport Mississippi, just one year after casinos opened, rape and robbery tripled while burglary, larceny and car theft doubled. Similarly, the Sheriff of Hancock County reported that burglaries doubled, and auto theft, assaults and larceny nearly tripled 1½ years after casinos opened in his county.

Percentage Increase in Crime Rates Between 1977 and 1990

Crime Category	Atlantic City	Nation
All Crimes (FBI Index)	230%	15%
Assault	316%	97%
Larceny	451%	35%
Robbery	159%	55%
Rape	156%	62%

National Coalition AGAINST Legalized Gambling

GAMBLING IS BAD FOR FAMILIES

Legalized gambling triggers addiction:

Legalized gambling triggers the mental disorder of pathological (or "compulsive") gambling. Pathological gambling destroys the lives of thousands of Americans and devastates their families, friends and employers. The most common argument in favor of gambling expansion is that it will yield government revenues which can be used for programs to "help" people. But helping some people by exploiting and destroying others is bad social policy, and simply unethical.

It is important to understand that gambling addition is just as real, and its consequences just as tragic, as alcohol or drug addiction. The American Psychiatric Association recognizes pathological gambling as a diagnosable mental disorder. The self-help organization Gamblers Anonymous has more than 650 chapters and is growing rapidly.

Individuals who become gambling addicts accumulate debts averaging $35,000-$92,000 before they seek treatment, are arrested, or commit suicide. Family savings are lost, marriages end, children go unsupported. A majority of pathological gamblers turn to some form of crime to support their addition.

Direct link to accessibility and acceptability:

Experts on pathological gambling believe that the prevalence rate of this disorder is linked to the *accessibility* and *acceptability* of gambling. In short, the more legalized gambling a state makes available, the more pathological behavior is triggered. And fast-paced gambling that maximizes the number of wagering opportunities (like casinos and video gambling machines), also maximizes gambling addiction.

In Atlantic City, for example, after pathological gamblers lose all their cash, empty their ATM accounts from teller machines inside the casinos, and can borrow no more, they walk outside the casinos to sell their jewelry and other valuables. Selling jewelry is such a big business in Atlantic City that there are dozens of "Cash for Gold" stores along Pacific Avenue, near the entrances to the Boardwalk casinos.

Any expansion of legalized gambling is likely to trigger thousands of new victims of gambling disorders. For example, in a state like Maryland, if ten casinos are built around the state (as proposed), it is estimated that as many as 50,000 residents will become pathological gamblers. And the problems of each of those pathological gamblers will harm many others, especially spouses and children.

Gambling is Bad for Families
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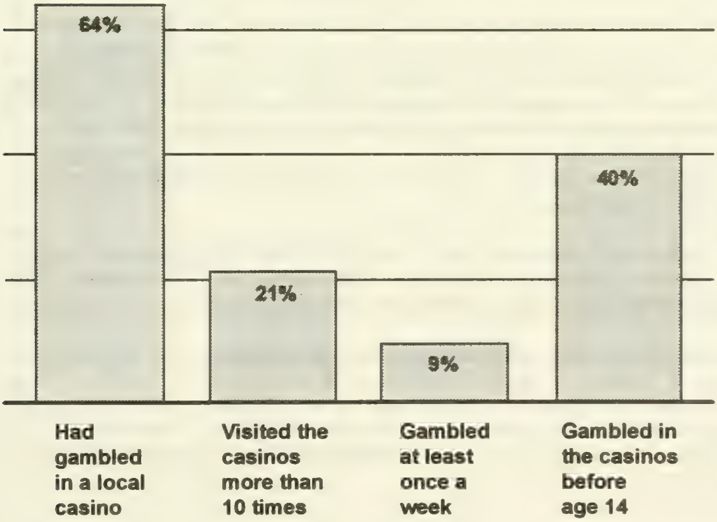
Creating a generation of problem gamblers

Researchers now call gambling the fastest growing teenage addiction, with the rate of pathological gambling among high school and college-age youth about twice that of adults. According to Howard J. Shaffer, Director of the Harvard Medical School Center for Addiction Studies, "There is an emerging body of evidence suggesting that illicit gambling among young people is increasing at a rate at least proportional to the opportunity to gamble legally." R. Goodman, *Legalized Gambling as a Strategy for Economic Development,* 1994.

For example, despite laws in Atlantic City restricting the casinos to persons twenty-one years or over, a survey of teenagers at Atlantic City High School revealed 64% of the teenagers had gambled in a casino. In 1991, Atlantic City casino security ejected over 21,000 persons under 21 from casinos, and prevented nearly 200,000 others from entering.

Survey of Teens from Atlantic City High School On Gambling in the Local Casinos



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MAJOR STATE BATTLES OVER GAMBLING, 1994-95

Alabama - Legislation in the state legislature to authorize eight land-based casinos and a state lottery was killed.

Arizona - The Governor announced that he would not negotiate any more Indian compacts.

Arkansas - In 1994, casino gambling proponents tried to petition two amendments onto the ballot but they were struck down by the state's highest court.

California - A pro-gambling group in Palm Springs hopes to spend $10 million on a petition drive next year to amend the state constitution to legalize ten Nevada-style casinos around the state.

Colorado - In 1994, anti-gambling forces, by the landslide margin of 92% to 8%, defeated an initiative referendum which sought to allow slot machines at Colorado airports and allow casinos in the town of Manitou Springs.

Connecticut - In October 1995, state legislators will meet in a special session to decide whether to authorize a casino in Bridgeport.

Florida - The casino industry suffered its biggest defeat of 1994 after spending over $16 million on a statewide referendum designed to legalize at least 47 casinos. The referendum lost 62% to 38%. Recently, the state Supreme Court approved a constitutional amendment called "Florida Locally Approved Gaming" or "FLAG," backed by Bally's casinos, which could be placed on the 1996 ballot.

Hawaii - In the 1995 legislature, there were numerous bills to legalize all types of gambling. All were defeated.

Illinois - Casino advocates have tried since 1992 to legalize a complex of five dockside casinos in Chicago, with five more boats elsewhere. Once again in 1995, the pro-casino bills have been blocked in the state legislature.

Indiana - Riverboat casinos are scheduled to open this year.

Kansas - In the 1995 legislature, a bill to reauthorize the state Lottery was amended in the House to provide slot machines at dog tracks. However, the Senate would not concur with the slot machine amendment and it was stripped from the final bill.

Major State Battles Over Gambling, 1994-95
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Maryland - In the 1995 session of the General Assembly, the gambling industry proposed five bills to legalize riverboat, dockside and/or land-based casino gambling. These bills were defeated in committee.

Michigan - Governor John Engler announced that he opposed off-reservation Indian casinos.

Minnesota - In 1994, a referendum intended to legalize video poker machines was defeated.

Missouri - In April 1994, the casino advocates lost a referendum to legalize "games of chance" by 1,261 votes out of more than a million cast. The same referendum was placed on the November ballot and won by 54% to 46% after the casino industry outspent their opponents by $7 million to $90,000.

Nebraska - 1995 legislation to permit video gambling machines in restaurants and bars was defeated in the Unicameral.

New Mexico - The gambling industry won a November 1994 referendum 54% to 46% to establish a statewide lottery and permit video poker machines. The results were overturned by the state's highest court because the referendum violated the constitution's one-subject rule. The court has also invalidated a series of Indian casino compacts signed by the Governor.

New York - The state legislature approved a constitutional amendment in the 1995 session to legalize casinos in upstate New York. The measure has to pass the legislature again in 1997 and then be approved by the voters in order to take effect. The legislature also legalized the "Quick Draw" Keno game, to be administered by the lottery commission. However, the new Keno law is being challenged in court.

Ohio - Governor George Voinovich announced that he strongly opposes the legalization of casinos.

Oklahoma - In 1994, a referendum to establish a state lottery was defeated.

Pennsylvania - Legislation to legalize up to 25 riverboat casinos was stopped when Governor Tom Ridge pledged not to approve casinos without a statewide referendum.

Major State Battles Over Gambling, 1994-95
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Rhode Island - In a statewide referendum in November 1994, voters rejected slot machines at the state's pari-mutuel facilities. On the local level, five townships held referenda and voted down casinos proposed for their jurisdictions.

South Carolina - In November 1994, 30 counties approved and 8 counties disapproved video slot machine gambling.

South Dakota - After state courts ruled video gambling machines unconstitutional, a November 1994 constitutional referendum reauthorized those machines by a margin of 53% to 47%. Gambling opponents have filed to petition this issue back onto the ballot in November 1996.

Texas - In 1995, the state legislature defeated legislation to legalize casinos.

Vermont - In May 1995, the citizens of Bennington defeated a referendum for casino gambling by a margin of only 56 votes. The Governor was among those who opposed the casinos.

Virginia - In 1995, the gambling industry hired over 50 lobbyists and spent millions of dollars lobbying for riverboat casinos. They were crushed in committee.

Washington - There is a referendum on the 1995 ballot to allow wide-open Indian casinos.

West Virginia - In 1995, the casino industry tried and failed to pass legislation legalizing riverboat gambling.

Wisconsin - In April 1995, a referendum to permit a statewide sports lottery was defeated 64% to 36%.

Wyoming - In 1994, a referendum to legalize video poker machines was defeated 69% to 31%.

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Timothy P. Ryan, Patricia J. Conner, Janet F. Speyrer, THE IMPACT OF CASINO GAMBLING IN NEW ORLEANS, Division of Business and Economic Research, University of New Orleans, 1990.

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Mr. HYDE. Well, I thank you, Mr. Grey.

And our next witness is Prof. Earl Grinols, Department of Economics, University of Illinois.

Professor.

STATEMENT OF EARL L. GRINOLS, PROFESSOR OF ECONOMICS, UNIVERSITY OF ILLINOIS, COLLEGE OF COMMERCE

Mr. GRINOLS. I am going to need somebody to flip the chart here for me, just display the first two on the top there, and the other one goes on its side, to the left. OK.

Gambling is a regulatory issue because it ruins the lives of some, and causes large costs to be imposed on the many for the benefit of the few. Other types of entertainment do not impose the same externality costs as gambling.

To summarize the main economic issues of gambling, I have prepared four charts which get the message across. With respect to employment, the first charts that are being shown there, gambling promoters often claim that casinos will bring economic development. The first figure shows the experience of three representative Illinois markets.

The figure shows monthly county data for the number of people employed relative to the State. State data are scaled to be the same size as the local market on the month of casino opening. Deviations from the State baseline, therefore, represent the differential labor market experience of each location due to factors such as the introduction of casinos.

Aurora and Joliet are chosen because they are near the suburbs of Chicago and are often pointed to by the gambling industry as examples of successful casinos. Peoria is centrally located, away from Chicago. And the figure also shows data for the number of unemployed.

The dark lines show the labor market experience while the dashed lines, beginning at month of opening, show the potential impact on jobs of the casinos if the casino gross revenues came from gamblers outside the area and all the revenues except for the State portion of taxes were spent locally.

The figures show no discernible pattern to the data after casino opening compared to before. Statistical regressions confirm the absence of an effect in these markets. This data agrees with economic theory and with what most economists would expect.

OK, could I have the next one?

The central objections to gambling derive from its costly externalities and the effect that it has on society. Nevada has had casinos since the early 1930's, owes more than half of its jobs to the casino industry, and until 1978 was the only State with casino gambling.

Nevada has the highest suicide rate in the Nation, more than double the national average, and one of the highest rates in the world. Nevada has one of the highest rates of child abuse, it is third in the Nation, and has one of the highest rates of automobile accidents per vehicle mile driven.

The connection to gambling is that addicted gamblers commit suicide at 5 to 10 times the average rate, according to experts, and that casinos often use alcohol as a gambling inducement.

Nevada also shows up prominently in other problem statistics, including school dropout rates and crime. The next figure that is shown compares Nevada in violent crime to other Western States ranked near it in population and to the Nation in suicide and child abuse.

Now, Nevada is to the right on the top chart in those two components, and Nevada is the red bar, the middle bar, in robbery and murder rates on the right. Its population is just like the population of other Western States. It is in the middle of those that it was compared to.

OK, next chart.

We know that 1 to 5 percent of the adult population will become addicted to gambling if it becomes commonly available. Through various means, we can calculate the cost to society per pathological gambler and work that out to what it would mean to the country if the whole country had expanded gambling, and it works out to a cost of between $315 to over $1,100 per working person, per member of the work force, if casino gambling were to spread nationwide. These high costs would be paid by everyone so that some may gamble.

OK. The figure shows the share of revenues received by a representative casino from three types of clients. The problem in pathological gamblers—leave the pie chart up.

The problem in pathological gamblers are the red section of the upper pie chart and two other groups which I would call heavy bettors and then everybody else. The data suggests that the casino industry is heavily dependent on the revenues of problem and pathological gamblers. In the chart, the hypothetical casino receives slightly more than half its revenues from this group.

These figures can be compared to the consumption of alcohol: 6.7 percent of the population consumes 50 percent of all alcohol consumed in the country annually. Because problem and pathological gamblers are typically less than 5 percent of the population, the pie chart below shows what this would mean for the relative amounts of gambling by three individuals of each type.

OK. The last—now we can go to the last chart.

Since casino gambling began its spread outside the confines of Nevada and Atlantic City, the serious economic questions have been: One, what are the social costs of casino gambling? Two, what are its benefits? And three, which is bigger?

The social cost figures just provided are astonishingly high when compared to other social issues. They can be compared to the costs of an additional recession in the economy roughly every decade or to suffering an additional Hurricane Andrew, which was the costliest natural disaster the country has ever experienced, every year for the rest of time.

One problem that economists have is trying to explain the billions of dollars of social damage in ways that are comprehensible. The last chart shows the additional social cost, not the total social costs, of gambling on a per-adult basis that would come from expanding casino gambling to all parts of the country, compared to the pre-1990 situation when only Nevada and Atlantic City had casinos.

Extensive expansion would create social benefits of about $110—in social benefits of about $110. That is, the taxes we get from it, the increase in casino profits, and the value to consumers of having nearby casinos, about $110 per adult in social benefits.

The additional social cost, however, would be between $110 to $340 per adult. If the choice were between allowing gambling everywhere or total prohibition. These figures suggest that we are better off with total prohibition.

The chart, the bar on the left, is the costs; the bars in the middle are the social benefits. That is the relative magnitude we are dealing with on a per-adult basis, comparing expansion to total prohibition.

The chart highlights another important point. Casinos can remain highly profitable to their owners whether they bring economic development to a region or not, and regardless of whether gambling creates social costs or not, because the costs are paid by one group and the revenues are received by another.

The bar on the right is the revenue that a typical casino would be getting per adult if we were to expand nationwide.

Thank you.

[The prepared statement of Mr. Grinols follows:]

PREPARED STATEMENT OF EARL L. GRINOLS, PROFESSOR OF ECONOMICS, UNIVERSITY OF ILLINOIS, COLLEGE OF COMMERCE

As noted by gambling experts, the expansion of casino gambling in the past half dozen years has not come as the result of a "popularly-based movement for expansion of legalized gambling," [1] nor is it the result of painstaking judicious planning and careful deliberation by elected officials. Rather, it has happened as the unintended consequence of a number of small inceptive events such as the Indian Gaming Regulatory Act of 1988 and initiatives by several states to introduce casinos. The crack in the dike was widened to a flood by gambling industry lobbying in government offices and the inability of most others to do anything about it; the result is a nationwide deluge of casino expansion.

Now the Federal government is considering what its role should be in regulating the gambling industry. There would be no need for oversight or regulation if it were not for the tremendous harm that gambling does to some individuals and the widespread and heavy costs that it inflicts on everyone—including those who do not gamble.

In many ways an analogy can be drawn between casino gambling today and smoking thirty years ago. There was already a great deal of evidence that smoking was harmful, but the tobacco industry naturally had little reason to want to provide research on the harmful effects of tobacco. It did have a vast amount of resources and an interest in questioning the evidence of others that tobacco was dangerous. The federal government took a greater role and today we understand the true effects of tobacco on the health of its users. The analogy ends at this point, however, because instituting a prohibition of tobacco sales in any state must confront the long history of legal use of tobacco in every state in the union. In contrast, until 1991 casino gambling was legal only in Nevada and Atlantic City.

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[1] Robert Goodman, Statement before the U.S. House of Representatives, *Hearing on the National Impact of Casino Gambling Proliferation*, Committee on Small Business, 103rd Congress, 2d Session, Serial No. 103-104, 21 September 1994, p. 57.

Gambling Economics

One policy option is to prohibit casino gambling, as was the case in all states except Nevada and New Jersey prior to six years ago. Another option is to allow widespread expansion. It is not clear that a middle alternative—allow casino gambling but take measures to prevent problem and pathological gambling by treatment initiatives—is available.

Although casino gambling has been available in Nevada since the early 1930s there is little research available from the gambling industry or those it sponsors that would allow one to evaluate these options. My own research, therefore, has been directed to developing independent cost-benefit information on casino gambling.

Employment. The industry claims that gambling creates economic development. These claims are mostly false, but because there *are* rare circumstances in which casinos can increase employment in a given region, they are often accepted in places where the claims do not apply. A good question to ask is whether a casino will act as a factory, a toll house, or a restaurant. A factory exports its products to buyers outside the area and brings new money to fund factory jobs and area jobs in the secondary economy. A toll house, on the other hand, collects money from those inside and outside the region, but has little or no effect on the area's economy because it takes the money it collects outside the area. A toll house could even shrink the local economy if it takes more out than it brings in. A restaurant sells to locals. A growing restaurant may be successful, but it competes with other businesses in the area. Since no new dollars from the outside are brought in, there is no effect on the local economy other than redistribution of consumer dollars.

Research completed this summer (1995) using state and county employment and unemployment data from eight casino markets in Illinois shows that the benefits of economic development have not appeared. These markets include both large and small counties, and differ in their proximity to metropolitan areas that range in size from Paducah, Kentucky to St. Louis and Chicago. What was learned should therefore be valuable for cost benefit evaluations of casino expansions in other areas.

Of sixteen data sets examined, none showed a relationship between casino gambling and local jobs except two areas where the effect was 15 and 16 percent of what could be expected if casino revenues came from outsiders and, with the exception of state taxes, were spent locally. Representative charts of the data for three of the areas is included in my testimony. The absence of an effect is consistent with the toll house and restaurant models above. In only one case was the outcome larger, measuring 41 percent of the possible.

The areas that showed employment effects were characterized by a low population (in both areas county employment was less than 12,000) and close access to a larger population base. Las Vegas, relying heavily on gamblers from California, and Tunica, Mississippi near Memphis, Tennessee, fit this pattern since neither area had a substantial economic base apart from casino gambling.

Based on this evidence, economic development does not appear to be a reason to turn to casino gambling.

Social Impact and Pathological Gambling. The social costs of casino gambling derive primarily from the 1 to 4 or 5 percent of the population who become pathological gamblers upon its introduction. Recent research commissioned by the Iowa Department of Human Services confirms again that the introduction of casino gambling increases the number of pathological gamblers.[2] Taking account of the cost to society per pathological gambler and their prevalence in the population leads to annual social costs between $315 to over $1,100 per member of the work force.

Evidence from pathological gamblers about how much they lose in casinos, combined with data about average casino gross revenues per adult from those living near casinos, suggests that the casino industry relies surprisingly heavily on the losses of problem and pathological gamblers. These two groups typically constitute about 4 percent of the population, but provide slightly more than half of casino revenues.[3] Such information is important because it suggests an inherent link between casino gambling and the source of social costs. Further, it suggests that the industry would have less desire to help prevent problem and pathological gambling than if its revenues were less affected by their absence.

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[2] The rate of active pathological gamblers rose from .1 percent to 1 percent from 1989 to 1994, a period that saw the introduction of casinos. Rachel A. Volberg, 1995, "Gambling and Problem Gambling in Iowa: A Replication Survey," Report to the Iowa Department of Human Services, July 28.

[3] This can be compared to the lottery, in which the top 10 percent of the population accounts for 65 percent of lottery wagers. Charles T. Clotfelder and Philip J. Cook, *Selling Hope*, Cambridge: Harvard University Press, 1989, pp. 92-93.

Costs and Benefits. The most important finding of my research to date is that gambling fails a simple cost-benefit test. Taking into account the benefits to consumers of having a casino within 35 miles of every adult,[4] the taxes that expanded casino gambling would produce, and the increase in profits to casino owners, the annual value of expanding casino gambling is about $110 per adult. Since the social costs of expanded casino gambling are somewhere between $110 and $340 per adult, costs outweigh benefits.[5] The conservative way in which costs were computed reinforces this negative conclusion.[6]

Conclusions

In spite of its social impact, casino gambling is profitable to developers and private casino owners. Many of the owners would sincerely like to continue to make the fabulously high returns that a regional casino monopoly license offers them without creating or exploiting pathological gamblers. However, there is no evidence currently available that such an option is possible. In this respect, casino gambling is one of a group of goods and services including alcohol, illegal drugs, and tobacco, where private interests conflict with overall public interests.

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[4] The benefit of closer casinos can be inferred from information about how much nonproblem and nonpathological gamblers living at different distances from Las Vegas and Atlantic City annually lose in casinos. Since most individuals have many forms of recreation available without casinos and can obtain restaurant meals, drinks and entertainment elsewhere, the amount an average adult would be willing to pay annually to have casinos within 35 miles is approximately $80. Those living further away would pay more and those already living close to a casino would pay less than this amount.

[5] The relative magnitude of costs and benefits is charted in my testimony.

[6] For example, only the costs attributable to pathological gamblers were counted (costs related to problem gamblers were ignored) and many social costs such as suicide, increased car accidents, and family disintegration are not measured. In my testimony I provide some information on suicide, child abuse, and violent crime rates in Nevada compared to other western states and the rest of the country. Links between pathological

If the choice is between prohibiting casino gambling or allowing its expansion, the evidence says we are better off prohibiting it as most states have done until recently.

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gambling and suicide, car accidents, and other problem statistics have been developed in the gambling literature.

Gambling is a regulatory issue because it ruins the lives of some and causes large costs to be imposed on the many for the benefit of the few. Other types of entertainment do not impose the same externality costs as gambling.

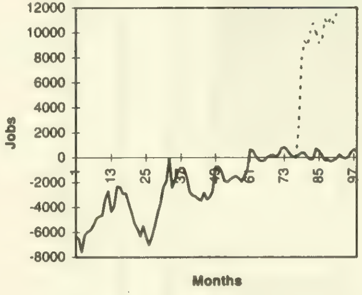
Gambling is a national issue because regional governments that intend it to draw dollars from neighboring jurisdictions intentionally play a Beggar-Thy-Neighbor brand of politics. The gambling industry exploits competition between regions to help it expand into new areas. When every region has casinos, they cannot all gain at the others' expense. Casino owners will make high profits, while the rest of society, including those who do not gamble, will pay social costs that exceed what the casino owners receive.

To summarize the main economic issues of gambling I have prepared several charts.

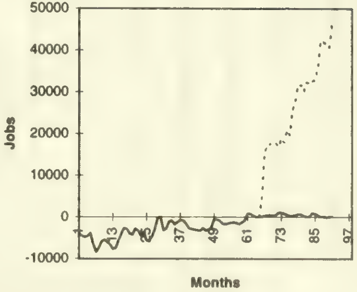
Employment

Gambling promoters often claim that casinos will bring economic development. The first figure shows the experience of three representative Illinois markets. The figure shows monthly county data for the number of people employed relative to the state. State data are scaled to be the same size as the local market on the month of casino opening. Deviations from the state baseline therefore represent the differential labor market experience of each location due to factors such as the introduction of casinos. Aurora and Joliet are chosen because they are near the suburbs of Chicago and are often pointed to by the gambling industry as examples of successful casinos. Peoria is centrally located, away from Chicago. The figures also show data for the number of unemployed.

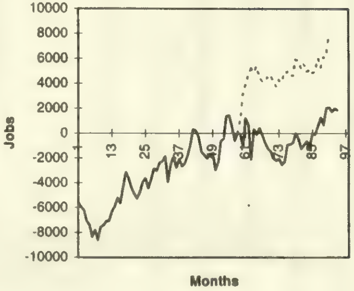
Employment-Unemployment



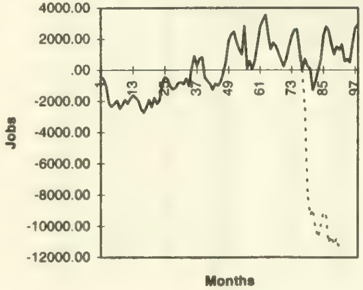
AURORA RELATIVE TO STATE: Employment



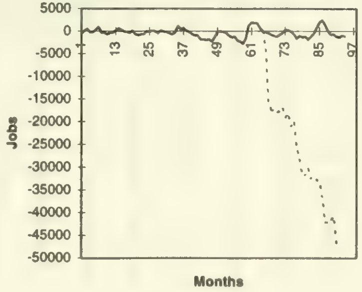
JOLIET RELATIVE TO STATE: Employment



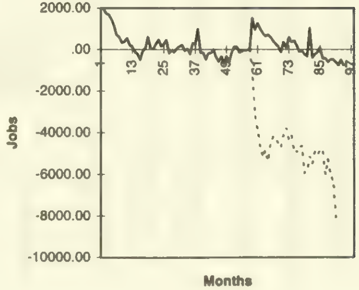
PEORIA RELATIVE TO STATE: Employment



AURORA RELATIVE TO STATE: Unemployment



JOLIET RELATIVE TO STATE: Unemployment



PEORIA RELATIVE TO STATE: Unemployment

The dark line shows the labor market experience while the red lines beginning at month of opening show the potential impact on jobs of the casinos if the casino gross revenues came from gamblers outside the area and all revenues (except for state taxes) were spent locally.

The figures show no discernible pattern to the data after casino opening compared to before. Statistical regressions confirm the absence of an effect in these markets.

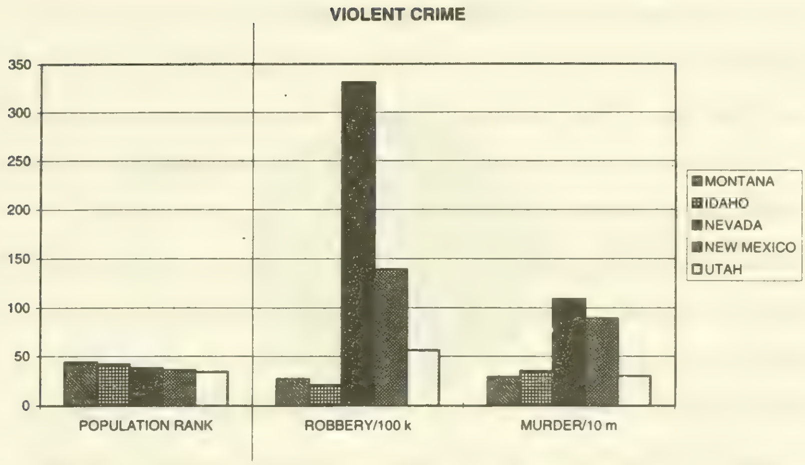
This data agrees with economic theory and with what most economists would expect.

Social Impact

The central objections to gambling derive from its costly externalities and the effect that it has on society. Nevada has had casinos since the early 1930s, owes more than half of its jobs to the casino industry, and, until 1978 was the only state with casino gambling. Nevada has the highest suicide rate in the nation, more than double the national average, and one of the highest rates in the world. Nevada has one of the highest rates of child abuse (third in the nation), and has one of the highest rates of automobile accidents per vehicle mile driven. The connection to gambling is that addicted gamblers commit suicide at 5 to 10 times the average rate according to experts and that casinos often use alcohol as a gambling inducement. Nevada also shows up prominently in other problem statistics including school dropout rates and crime. The figure compares Nevada in violent crime to other western states ranked near it in population and to the nation in suicide and child abuse.

Pathological Gambling

We know that 1 to 5 percent of the adult population will become addicted to gambling if it becomes commonly available. Pathological gambling has the potential to become just as big a social problem as any the country now struggles with including drug addiction, alcoholism, and


VIOLENT CRIME
350
300
250
200
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50
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POPULATION RANK
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MURDER/10 m
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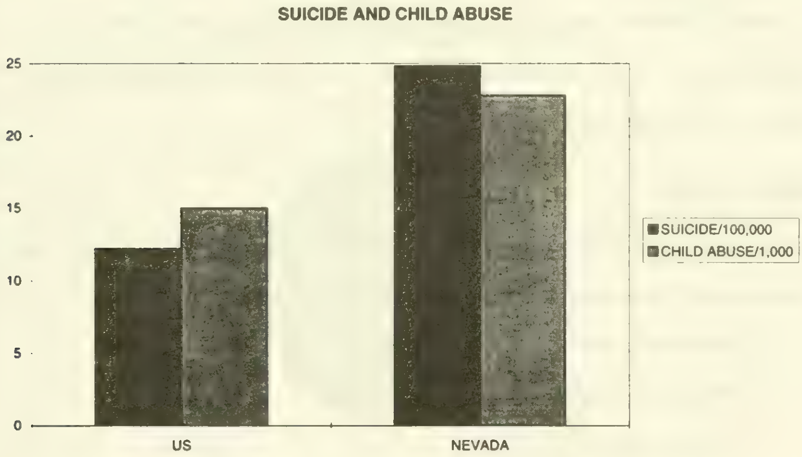
NEVADA
NEW MEXICO
UTAH


SUICIDE AND CHILD ABUSE
25
20
15
10
5
0
US
NEVADA
SUICIDE/100,000
CHILD ABUSE/1,000

crime. Combining prevalence studies with information about the social costs per pathological gambler implies annual costs averaged over the country's work force of $315 to over $1,100 for every working person. These high costs would be paid by everyone so that some may gamble.

The next figure shows the share of revenues received by a representative casino from three types of clients: Problem and pathological gamblers, heavy bettors, and everyone else. Combining information from pathological gamblers about how much they lose annually with data about the prevalence rate of pathological gamblers in the population, suggests that the casino industry is heavily dependent on the revenues of problem and pathological gamblers. In the chart, the casino receives slightly more than half its revenues from this group. These figures can be compared to consumption of alcohol: 6.7 percent of the population consumes 50 percent of all alcohol consumed in the country annually.

Because problem and pathological gamblers are typically less than 5 percent of the population, the next chart shows what this means for the relative amounts of gambling by three hypothetical individuals, one of each type.

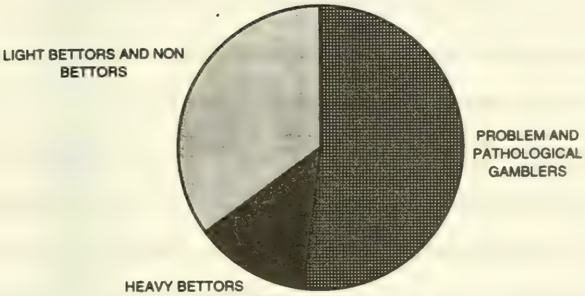
Costs and Benefits

Since casino gambling began its spread outside the confines of Nevada and Atlantic City, the serious economic questions have been:

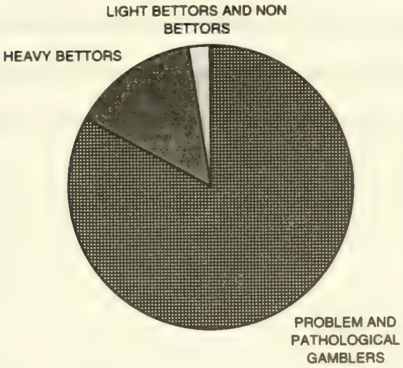
1) What are the social costs of casino gambling?
2) What are its benefits?
3) Which is bigger?

The social cost figures just provided are astonishingly high when compared to other social issues. In my Congressional testimony last year I compared them to the costs of an additional

CASINO REVENUE SHARES



RELATIVE GAMBLING BY GAMBLER TYPES

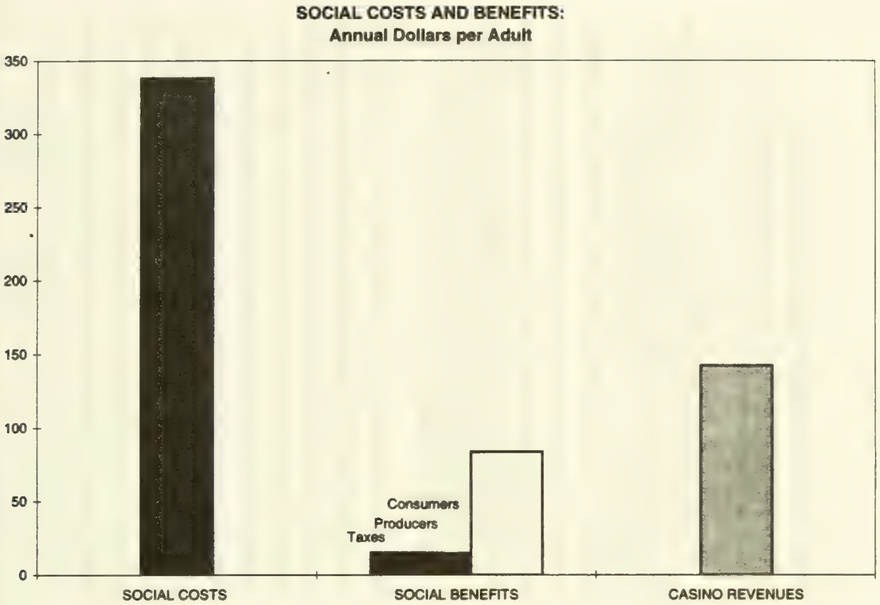


recession in the economy roughly every decade or to suffering an additional hurricane Andrew, the costliest natural disaster in American history, every year for the rest of time.

One problem that economists have is trying to explain billions of dollars of social damage in ways that are comprehensible. My last chart shows the *additional* social costs and benefits on a per adult basis that would come from expanding casino gambling to all parts of the country, compared to the pre-1990 situation when only Nevada and Atlantic City had casinos. Extensive expansion would create social benefits of about $110 including $15 in taxes, $14 in increased casino profits, and the benefits of closer casinos for consumers. The additional social cost would be between $110 to $340 per adult. If the choice were between expansion or prohibition, these figures suggest we are better off with the pre-1990 situation.

The last bar shows casino revenues. Because social costs equal three-fourths to more than 100 percent of casino revenues, social costs cannot be compensated by taxing casinos more heavily.

The chart highlights another important point: Casinos can remain highly profitable whether they bring economic development to a region or not, and regardless of whether gambling creates social costs or not, because the costs are paid by one group and the revenues are received by another.


SOCIAL COSTS AND BENEFITS:
Annual Dollars per Adult
350
300
250
200
150
100
50
0
Consumers
Producers
Taxes
SOCIAL COSTS
SOCIAL BENEFITS
CASINO REVENUES

DEVELOPMENT OR DREAMFIELD DELUSIONS?:

ASSESSING CASINO GAMBLING'S COSTS AND BENEFITS

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September 1995

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DEVELOPMENT OR DREAMFIELD DELUSIONS?:

ASSESSING CASINO GAMBLING'S COSTS AND BENEFITS

I. INTRODUCTION

The frenzy of casino expansion in the U.S. and Canada in recent years bears many of the behavioral characteristics of a bubble to observers who call gambling the modern "endless field of dreams."[1] To others it is a promising tool for economic development. As an economic and social matter, however, gambling has always raised deep questions for the theoretician and for the policymaker. Adam Smith, for example, attributed the purchase of lottery tickets to mistaken beliefs about the chance of winning

> "That the chance of gain is naturally overvalued," he wrote, "we may learn from the universal success of lotteries. The world neither ever saw, nor ever will see, a perfectly fair lottery; or one in which the whole gain compensated the whole loss; because the undertaker could make nothing by it....There is not, however, a more certain proposition in mathematics than that the more tickets you adventure upon, the more likely you are to be a loser. Adventure upon all the tickets in the lottery, and you lose for certain; and the greater the number of your tickets the nearer you approach to that certainty."[2]

In their classic article, Friedman and Savage (1948) addressed the question of how individuals who buy insurance could simultaneously be interested in participating in the unfair risks inherent in lotteries and gambling.[3] The difficulties associated with gambling do not end there, however Economists have long known that for many gamblers and those who provide them gambling services, gambling is in a class of activities that have come to be called Directly Unproductive Profitseeking (DUP) activities.[4] The problem of latent pathological gamblers in the population and their transformation into expressed pathological or "addicted" gamblers[5] upon the actual introduction of casino gambling raises different questions. For instance, how should consumer choice theory and welfare theory be applied to a good where a large share of revenues is explained by addiction? Becker and Murphy (1988) began the important development of a theory of rational addictive consumption using linkages in consumption of the same good over time. This framework is tested with respect to cigarette consumption in Becker, Grossman, and Murphy (1994).

Because gambling addiction leads to direct costs on others, negative externalities make gambling a public policy issue and a regulatory matter. The relationship between government and gambling creates additional challenges. Government casino licenses often resemble Elizabethan era crown monopolies that provided monopoly rents to favored courtiers. Whether government should arrogate to itself monopoly rents by state enterprise casinos as Canada does in Ontario, and how it can guard against the inevitable political influence-buying and graft due to rentseekers are open questions.

Finally, in many places promoters present gambling as a regional development tool. How good a development tool is it? In their eagerness to grow, one region often plans casinos to attract dollars from neighboring areas. These areas in turn feel pressure to take countermeasures by introducing casinos of their own, even though there are social costs to gambling. This leads to a classic Prisoner's Dilemma where defection—licensing a casino—is pitted against the cooperative solution where both regions agree to prohibit casino gambling. How do the incentives for inter-regional Prisoner's Dilemma and Beggar-Thy-Neighbor competition affect pressures for gambling's spread?

Clearly, the preceding list of issues, touching on economics, psychology, law, and government, is too extensive to address in a single paper. Given the prohibition against casino gambling in most parts of the country until recently, it is perhaps not surprising that addiction and gambling-related questions have only begun to be investigated. The perception of many government bodies is apparently driven by the view that gambling entails negative social consequences and risks, but that it also provides more than compensating positive regional benefits as a tool to expand local economies. The purpose of this paper is to begin the dispassionate process of determining whether gambling is as good or as bad in cost-benefit terms as many claim by analyzing three components of gambling: the externality social costs, the direct benefits to consumers from more casinos, and the regional employment benefits. Section 2 identifies gambling's social costs that currently can be quantified. We construct an annual cost figure for gambling in per capita form from information about the crime-related, direct regulatory, and lost productivity costs associated with pathological gambling. We then turn to the benefit side, using marketing data to estimate the consumer benefits that would result from expanding the availability of casinos so that every adult has a casino within 35 miles. Information about the change in producer surplus and taxes completes the list of social benefits.

Section 3 considers the regional impact of gambling on employment and unemployment using data from eight casino markets in Illinois. These markets include both large and small counties, and differ in their proximities to metropolitan areas that range in size from Paducah, Kentucky to St. Louis, Missouri and Chicago, Illinois. Much of what can be learned therefore should be useful to cost benefit evaluations of casino expansion in other areas.

II. GAMBLING ECONOMICS

To understand casino gambling requires an understanding of its externalities. Were it not for the social problems and costs associated with gambling, there would be little concern about how much gambling there is–any more than one cares how much tennis, movie attendance, or any other recreational activity there is.

A. Direct Externality Costs

Unlike most entertainment, gambling is associated with significant negative externalities that derive from a small portion of the gambling population. Somewhere between 30 percent and one-half of the population never, or almost never, gambles.[6] Most of the population with access to casino gambling might be considered light bettors, occasionally frequenting a nearby casino for a meal out and some entertainment. The remaining less than 10 percent of the population consists of heavy bettors, problem gamblers (2 to 3 percent of the overall population) and pathological gamblers (1 to 2.5 percent).[7]

Pathological or "addicted" gamblers impose costs on the rest of society in the form of crime-related apprehension, adjudication, and incarceration costs, and social service costs for themselves and their families.[8] Lost productivity is the source of other social costs.[9] Although the percentage of pathological gamblers in the population is small, it is typically a tiny portion of the population that creates the enormous social costs that must be borne by the rest. The percentage of pathological gamblers, for example, should be compared to the percentage of the population who engage in robbery, drive drunk, or abuse illegal drugs.

Because gambling activities are easy to manipulate and have historically been subject to fraud, gambling historically has been government regulated.[10] Direct regulation costs impose additional burdens on society that many other forms of entertainment do not have.

Various studies have documented the connections between gambling and its social costs.[11] Some of these connections are surprising, such as increased suicide, increased car accidents, increased incidence of child abuse, and so on.[12] Focusing just on the social costs that can be measured--primarily apprehension, adjudication, incarceration, direct regulatory costs, and lost productivity costs--leads to annual costs per pathological gambler between $15,000 and $33,500 in current dollars.[13] Combining prevalence studies of the extent of pathological gambling with estimates of the costs per pathological gambler implies social costs due to gambling between $210 and $778 per adult each year when spread over the entire population.[14] Because most areas already experience gambling social costs to some degree, the *additional* costs to an area from introducing gambling are between $112 and $338.[15]

Applied to the population of the U.S. aged 20 and up, these figures would imply social costs of $39 to $145 billion each year from the spread of casino gambling nationwide, making gambling equivalent in magnitude to social problems such as drug addiction or alcoholism. Using the mid-point number for the *additional* costs of gambling expansion implies social costs of $42 billion compared to the pre-expansion situation existing in 1990. In other words, expanding gambling would be more costly to the nation than an additional hurricane Andrew every year in perpetuity ($32 billion in damage, the costliest natural disaster in American history), or it would be the equivalent of an additional 1990-91 recession roughly every decade. These are large enough costs to make gambling worthy of study.

Role of Pathological Gambling in the Gambling Industry

Casinos are aware of gambling addiction, and, for the most part, do not try to deny that the problem exists. The extent to which casino revenues are dependent on losses from pathological and problem gamblers, however, has not received much attention. Because the gambling industry is naturally reluctant to publicize this type of information, public sources of information must be used to infer the degree of industry dependence on pathological and problem gamblers.

Average losses to casinos from adults living within 35 miles of Las Vegas and Atlantic City were $105 and $199 in 1991.[16] The weighted average over both regions was $142. Whereas the average adult lost this much to the casino annually, actual losses range from zero for those that never gamble, to many thousands of dollars for gamblers seeking help.[17] Published studies provide information on the distribution of gambling losses. Clotfelder and Cook (1989), for example, report that the ten percent of the population who wagered most heavily in lottery wagers accounted for 65 percent of the total wagers An earlier study by the University of Michigan Survey Research Center reported that 6 percent of the population engaged in commercial gambling in 1974 accounted for 93 percent of the wagers.

Assuming conservatively that the top ten percent of the population account for 65 percent of revenues as is true for lotteries (more widely played compared to casinos), Table 1 provides a profile of the source of gambling revenues by type of gambler. Applying the terms pathological and problem gambling as used by the psychology profession, we call those who have not gambled in a casino in the past year nonbettors, and divide the remaining gamblers into "heavy" and "light" bettors.[18] Assuming that 1.38 percent of the adults are pathological gamblers[19] who lose an average of $4,013[20] and that problem gamblers lose one-seventh the amount that pathological gamblers do, implies that 52 percent of

TABLE 1: Representative Distribution of Gambling Revenues by Type of Gambler

Percent of Population	Designation	Annual Loss per Bettor	Annual Loss per 100 Population	Cumulative Percent of Casino Gross
1.38	Pathological Gamblers	$4,013	$5,538	39%
2.73	Problem Gamblers	$669	$1,826	52%
5.89	Heavy Bettors	$317	$1,865	65%
40	Light Bettors	$124	$4,970	100%
50	Nonbettors	$0	$0	100%
100			$14,200	

casino revenues come from the 4.11 percent of the population who are pathological and problem gamblers. In this respect, casino gambling resembles alcohol for which 6.7 percent of the population consumes 50 percent of all alcohol consumed.[21]

The fact that the gambling industry is dependent on problem and pathological gamblers for such a large share of its revenues casts doubt on the feasibility of treating pathological gamblers using industry tax revenues to prophylactically prevent the externality costs of gambling addiction: The treatment cost to the industry would be high; these costs would be on top of existing taxes on gambling gross revenues that are already high in many cases, and, if treatment were successful in preventing gambling by problem and pathological gamblers, it would significantly reduce industry revenues. It is probably safe to conclude that the gambling industry would not willingly forego half of its revenues.

B. Direct Benefits

On the positive side, gambling is an enjoyable activity for many adults who can gamble without causing harm to themselves or others. It is a tax source for government, and it generates profits and employment. These benefits must be weighed against the social costs enumerated above.

If we take a gambling visit as our quantity unit, there is no single market price for a gambling visit that expanding casinos to new parts of the country will change because gambling expenditures typically vary by gambler for the same length of visit. Rather, the primary benefit of the expansion of casino gambling to new regions is improved access to gambling on the same terms as it is currently available in existing gambling outlets. Thus, the relevant direct benefit for those who can unharmfully gamble comes from the greater convenience of geographically closer casinos.[22]

To construct a measure of benefits, let e(P, D, U) be the representative consumer's expenditure function where P is the vector of market prices faced by the consumer, D is the distance to the nearest casino, and U is the utility level. From the consumer's perspective, P and D are exogenously fixed. We assume that the expenditure function is nonincreasing in D since closer distance to the casino is either welfare improving or neutral. Let superscript 0 refer to the initial pre-1990 situation and 1 refer to the counter-factual situation with casinos within 35 miles of every adult. For fixed P and D, e(P, D, U) is increasing in U so that a dollar measure of the change in welfare from U^0 to U^1 can be written as follows:

$$e(P^1,D^1,U^1)-e(P^1,D^1,U^0)=\{e(P^0,D^0,U^0)-e(P^0,D^1,U^0)\}+\{e(P^1,D^1,U^1)-e(P^0,D^0,U^0)\}+\{e(P^0,D^1,U^0)-e(P^1,D^1,U^0)\}$$

$$=\int_{D^0}^{D^1}\frac{\partial e}{\partial D}dD+\{P^1\cdot(Y^1+W^1+Z^1)-P^0\cdot(Y^0+W^0+Z^0)\}+\{e(P^0,D^1,U^0)-e(P^1,D^1,U^0)\}$$

$$=\int_{g^0}^{g^1}\frac{\partial e}{\partial D}\frac{\partial D}{\partial g}dg+\{(P^1\ (Y^1+Z^1)-P^0\ (Y^0+Z^0)+(P^1-P^0)\ W\}+\Delta\text{Consumer Surplus}$$

$$=\int_{g^0}^{g^1}\frac{\partial \tilde{e}}{\partial g}dg+\{\Delta(\text{Producer Surplus}+\text{Taxes})+\Delta\text{Factor Earnings}\}+\Delta\text{Consumer Surplus}$$

$$=\int_{g^0}^{g^1}\frac{\partial \tilde{e}}{\partial g}dg+\Delta\text{Producer Surplus}+\Delta\text{Taxes}$$

where g is the amount spent per casino visit V, and $\tilde{e}(P,g,U)\equiv e(P,D(g),U)$. The first line is an identity. The second follows from rewriting $e(P^0,D^0,U^0)-e(P^0,D^1,U^0)$ in integral form and noting that $e(P^1,D^1,U^1)$ and $e(P^0,D^0,U^0)$ --total expenditure in the final situation and initial situation, respectively--equal the value at domestic prices P of all goods consumed where Y is the domestic production vector,[23] Ω is the vector of endowments of factors, and Z is net imports. The third line follows from making a change of variable between D and g under the integral sign, rearranging terms, and noting the definition for compensating variation consumer surplus.[24] The fourth line follows from the fact that at consumer prices P, P(Y+Z) equals firm profits plus taxes. The last line follows from the assumption that casino expansion will not change prices ($P^1 = P^0$) because the gambling sector is small relative to the economy. Consequently, consumer surplus and the change in factor incomes from price changes drop out, leaving the distance effect of casino expansion, producer surplus and the effect on taxes as the relevant welfare components. We estimate each of these in turn.

The derivative $\frac{\partial \tilde{e}}{\partial g}$, the change in expenditure with respect to casino spending, equals the number of casino visits V. Using information about how much adults at different distances from the casinos in Las Vegas and Atlantic City spent on an additional gambling visit in 1991 allows us to approximate

$$\int\frac{\partial \tilde{e}}{\partial g}dg .$$

Distance Benefits

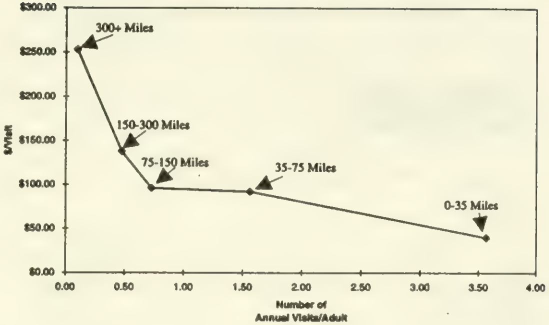
Table 2 provides the data on population, casino expenditures, and distance from Atlantic City and Las Vegas for 1991.[25] Figure 1 plots the relationship between visits and expenditure. The number of gambling visits and the amount consumers were willing to spend per visit in 1991 varied monotonically with the distance from Atlantic City and Las Vegas. For example, when the distance was more than 300 miles expenditure for the average casino visit was $253.04 and gamblers made only .1 such visit per year. When the distance was 150 to 300 miles, expenditures were $137.92 per visit and gamblers made.48 visits. The number of adults at each distance is given in row 3 of Table 2.

Assuming that all U.S. adults would respond the way adults living within 35 miles of casinos in Las Vegas and Atlantic City did, implies that revenues to casinos would rise $17.7 billion to $25 billion were every adult to have a casino within 35 miles. A portion of these expenditures will be due to new pathological and problem gamblers. The increase in consumer benefits to nonproblem and nonpathological gamblers from this change for consumers living 300 miles or more away can be found by adjusting revenues for spending due to problem and pathological gamblers and integrating the area under the resulting curve between the 300+ miles point and the point corresponding to a casino 0-35 miles away. Multiplying this by the number of adults that distance away gives the surplus for that portion of the population.[26] The same computation is then performed for adults other distances away.

Table 2: Gambling Expenditures Versus Distance from Casino

	Distance of Gamblers from Casino in Miles				
	0-35	35-75	75-150	150-300	Over 300
$/Visit	$39.88	$91.97	$96.11	$137.92	$253.04
Visitor Days/Visit	1.00	1.00	1.11	2.60	4.54
Visits/Adult	3.56	1.56	0.73	0.48	0.10
Adult Population	900,290	4,572,280	18,734,095	32,221,396	119,540,700

Figure 1: Expenditure Per Visit



The results of these computations are shown in Table 3. For example, the average adult living over 300 miles from a casino would be willing to give up $90.30 in return for being able to make use of casinos located within 35 miles. The figures for other distances can be read from the table. For the nation as a whole, the average gain would be $83.50 per adult.[27]

Compared to the interest that many adults might express for locating, say, a major league sports team nearby, the benefits in Table 3 may appear to be low. However, we must bear in mind that for many, gambling is really a bundling of activities such as restaurant meals, entertainment, and a night out, as well as the pure gambling activity itself. Many of those who occasionally gamble, such as retired individuals, report that they do so because of the cheap food and drinks. On a riverboat casino, the river cruise provides part of the entertainment. The bundled activities, however, compete with an abundant supply of close substitutes including restaurants, movies, concerts, sports events, excursion rides, the lottery and horse racing. Assuming that the gambler is not addicted to gambling, the advantage of another activity among many alternatives may be expected to be slight.

Producer Surplus and Taxes

In addition to the direct benefit of nearer casinos, we must take into account profits and taxes. To find the increase in producer surplus from casino expansion we compare the change in revenues to the change in costs. Comparing the visits times expenditure per visit that would be expected if casinos were within 35 miles of every adult to the revenues implied by Table 2 gives the change in revenues. Applying a representative provision cost of $25 per visitor-day[28] to the additional visitor days give the change in costs. As indicated above, revenues would be $17.7 billion higher or $101 per adult. Costs would be $12.7 billion higher, or $72 per adult, leaving $5 b for profits and taxes. Since taxes on casino gross revenues depend on rates that currently vary between 6.25 percent for Nevada and 20 percent for a number of other states, we assume an intermediate rate. Applying a 15 percent tax to $17.7 billion in

Table 3: Annual Direct Benefit from Expansion of Casinos to Within 35 Miles of Every Adult

($ per Adult)

	Starting Distance of Gamblers from Casino in Miles					
	0-35	**35-75**	**75-150**	**150-300**	**Over 300**	**National Average**
Benefit	$0.00	$61.40	$63.60	$75.20	$90.30	$83.50

revenues yields $2.7 billion or $15.10 per adult. After-tax producer surplus to casinos would therefore be $2.56 billion higher or $13.70 per adult.

C. Social Balance

Taken together, direct net benefits from expanded gambling would be $83.50 per adult, increase in producer surplus would be $13.70 per adult, and tax increases would be $15.10, for a total of $112.30. Since social costs were $112 to $338 per adult, costs outweigh benefits except for the lowest social cost figures. It therefore appears that gambling is among the class of activities that, while privately profitable to casino owners, are socially harmful.[29] The relative magnitudes of social costs, casino revenues, direct benefits, producer surplus, and taxes are shown in Figure 2.

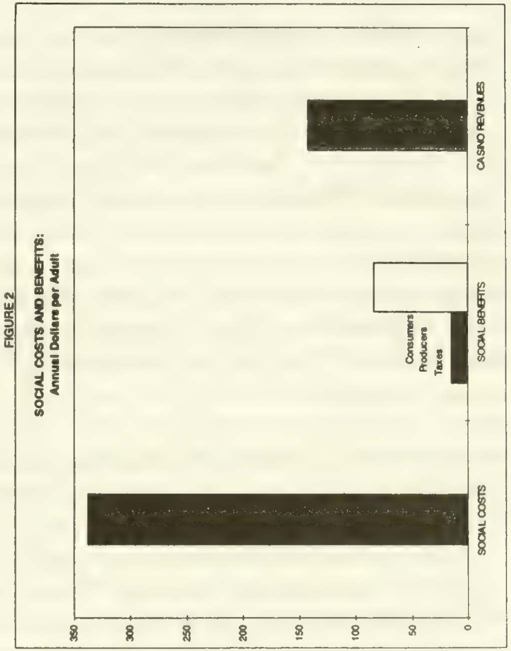
The preceding cost-benefit balance is sufficient for evaluating gambling for the nation as a whole, but does not take into account employment effects that matter to regions. We turn to this next

III. Development: Employment and Unemployment Effects

Partly in response to negative public perceptions, many in the gambling industry have promoted the idea that gambling is an economic development tool, creating jobs for depressed regional economies and revitalizing lagging areas. Gambling experts and even gambling spokesmen frequently suggest that such arguments are exaggerated or false,[30] but their cautions are often ignored by elected officials who face pressures to do what they can to aid their communities and therefore want to believe that gambling will help. It is an empirical matter subject to a number of special factors as to how gambling affects a particular economy. This section analyzes the effects of casinos on employment and unemployment by looking at data for eight casino markets in Illinois.

Beginning in September, 1991, Illinois was the second state to introduce riverboat casinos.[31] The original rationale for casinos was to use them to boost the lagging economies of selected depressed cities and areas around the state. Because casinos were to be on riverboats, a term immediately reminiscent of Mississippi River steamboats of the 1800s, it was felt that they would be tourist draws for river towns.

FIGURE 2



Facing little or, in most cases, no competition, the boats were immediately profitable.[32] With the success of the first boats and the passage of a few years, the original rationale for casinos was largely forgotten as business interests pressured for more licenses on the grounds that fairness required each region to have casinos of its own.

Economists familiar with Beggar-Thy-Neighbor politics and the Prisoner's Dilemma, recognize elements of both in the regional dynamics of casinos. A region that licenses casinos before its neighbors do can expect to expand its economic base if it draws dollars from those outside its own area. The Illinois rationale for placing casinos in the river towns of Alton and E. St. Louis, for example, had to do with the much larger across-river St. Louis market. The same logic was later applied by Indiana to Hammond, Indiana just east of Chicago. The inevitable profitability of casinos with a regional monopoly assures that others will push for casinos in the market with none. Once a city or region loses money to a neighboring region, its elected officials may accede to the argument that it must introduce defensive casinos of its own, even if it would not have done so without the provocation of a neighboring casino. Of the states surrounding Illinois, Iowa already had riverboat casinos and Missouri, Wisconsin, and Indiana all subsequently introduced casinos. When all regions have casinos they cannot all gain at the others' expense, but each will experience the externality costs of gambling without the hoped for economic expansion. The cooperative solution in which all areas agree to refrain from casinos is unavailable once the process for casinos begins.

Given the perceptions of many elected officials and the profitability of casinos to their owners, it often comes as a surprise when economists explain that a region might experience little or no improvement in its employment condition. This is true even during the temporary period when its casinos are without competition if they are not attractive to distant gamblers relative to other competition for their time and dollar.

A. Unemployment

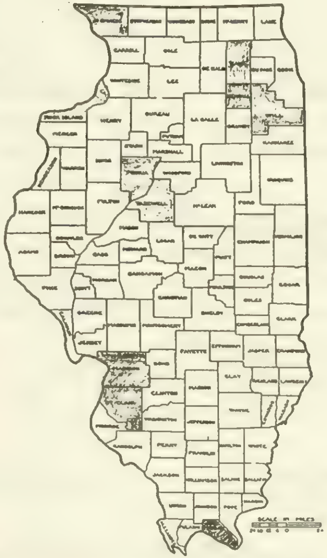
It is generally accepted that the recession of 1990-91 aided passage of the enabling legislation for the introduction of Illinois riverboat casinos. When unemployment is high, putting people to work is a priority. As noted above, license sites were chosen in the belief that riverboats would improve the job market in those areas relative to the rest of the state. Table 4 lists the boats, their date of entry, and the county or counties of operation. The accompanying figure displays a map of Illinois showing the location of the casinos covered in the present study. Metropolis, Illinois (Massac County) is on the Ohio River not far from Paducah, Kentucky. Alton and E. St. Louis (Madison and St. Clair Counties) are opposite St. Louis, Missouri. In the northern part of the state, E. Dubuque (Jo Davies County) is opposite Dubuque, Iowa, while Aurora and Joliet (Kane, Kendall, and Will Counties) are near Chicago. Peoria, in the center of the state on the Illinois River, is the only location not close to a larger population center nearby.

To assess the impact of casinos, monthly data on the number of people employed and unemployed were examined for counties containing riverboat casinos. Figure 4 plots the number of people unemployed relative to the number of people unemployed in the state for January 1987 to July 1994, a period spanning the introduction of casinos. In some cases data from more than one county was used so as to include the area surrounding the riverboat location. Figures for state unemployment are scaled to the size of the local labor market on the month before casino opening and subtracted. The deviations from the state baseline that are shown, therefore, represent the differential labor market experience of each location due to factors such as the introduction of casinos.

The four casinos in the southern half of Illinois are shown in part (a). Casinos opened in Alton in September 1991 (month 57), in Peoria in November 1991 (month 59), in Metropolis in February 1993 (Massac County, month 74), and in E. St. Louis in June 1993 (St. Clair County, month 78). The potential impact of the casinos is shown in each chart by plotting the change in number of unemployed that would

Table 4: Casino Locations and Names

County	City	Name	Initial Employees	Opening Month
Jo Davies	East Dubuque	Silver Eagle	546	June 1992
Massac	Metropolis	Players	769	February 1993
Peoria MSA	Peoria	Paradice	700	November 1991
Madison	Alton	Alton Belle	840	September 1991
Kane & Kendall	Aurora	City of Lights	1560	June 1993
Will	Joliet	Empress I & II	1575	June 1992
Rock Island	Rock Island	Casino Rock Island	662	March 1992
St. Clair	East St. Louis	Casino Queen	1154	June 1993



be expected if casino gross revenues came from gamblers outside the area, all hiring took place from among the pool of local unemployed, and, except for the 15 percent of gross revenues mandated for state taxes, all revenues were spent locally. A net export multiplier of 2 was used to show the predicted number of direct and induced jobs. These are shown as the descending solid lines starting at the month of casino opening.[33] Figure 4, part (b) shows the same information for casinos in the northern part of the state. The date of casino opening in each market is easily noted by the point where the descending solid line begins.

What does this data tell us? With the possible exception of Alton, there is no discernible pattern to the data after casino opening compared to before, even though the plain solid lines show that the casinos were capable of making a noticeable impact on the job market. In the case of Metropolis in Massac County, for example, total county employment was 5,411 on the month before opening, and the casino itself hired nearly 800.

Several possibilities can explain the fact that little or no impact on unemployment can be seen. One is that most hiring did not take place from the pool of local unemployed: If jobs were taken by people from outside the area or by individuals who left other jobs for casino employment, we would not observe a reduction in the number of unemployed. Another explanation might be that the casinos attracted large sums of money to the communities involved, but also removed large sums of money so that the local net expenditure increase was negligible. A combination of these explanations also might be responsible.

In the case of Alton we note that before introduction of the casino, unemployment looked much like state unemployment, sometimes greater, sometimes smaller than the state level. After introduction of the casino, however, Alton unemployment stays uniformly below the state benchmark. Although the reduction does not match the potential drop in unemployment, the consistent movement in one direction signals an effect for further investigation. We will quantify this effect below, after we look at the relationship between casinos and employment.

FIGURE 5: POTENTIAL AND ACTUAL EMPLOYMENT EXPERIENCE RELATIVE TO STATE BASELINE

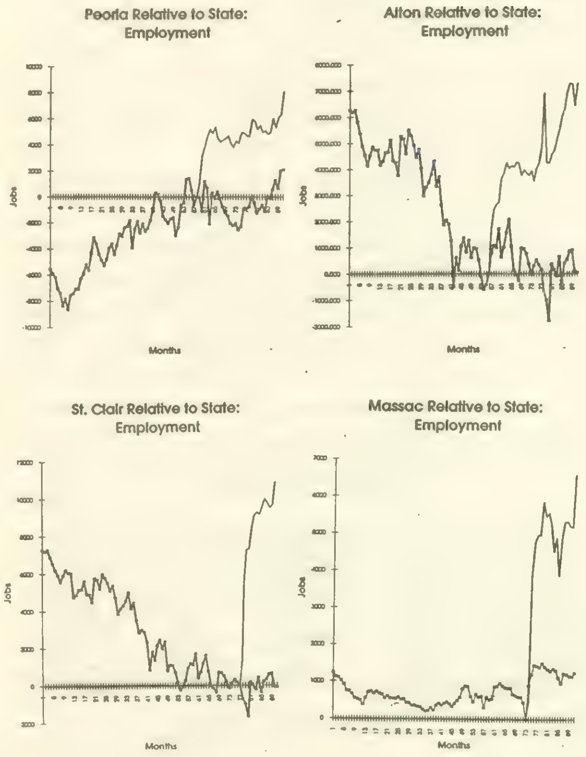
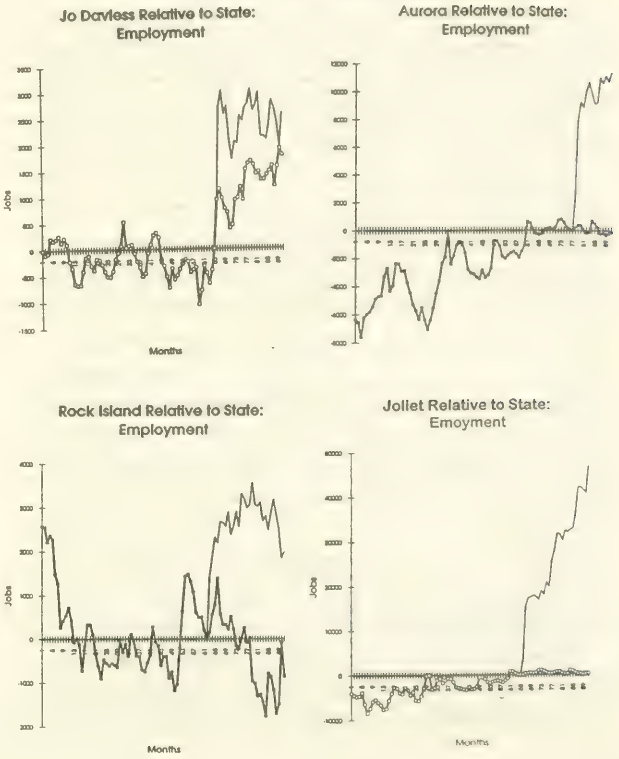


FIGURE 5: POTENTIAL AND ACTUAL EMPLOYMENT EXPERIENCE RELATIVE TO STATE BASELINE



B. Employment

Figure 5 charts the same information applied to the number of people employed. As before, the figures show employment in the local labor market relative to state employment scaled to be the same size as the local market on the month before casino opening.

We refer first to Aurora and Joliet in part (b). Casinos opened in Joliet in June 1992 (month 66) and in June 1993 (month 78) in Aurora. Both are communities near the Chicago suburbs with extremely profitable casinos. In addition, both are frequently cited by the gambling industry as examples of economic development. For both locations there is no noticeable effect of casino opening. If anything, both areas had growing employment relative to the state that seems to have leveled out when the casinos were opened (Joliet) or eighteen months before (Aurora). Because both Joliet and Aurora were growing before and after casino introduction, it is important to distinguish the effect of the casino from growth that would have happened anyway. The great size of the potential employment increase from the casinos in Joliet reflects the presence of the large Chicago market nearby from which the casino draws its revenues and which gives the casino its tremendous profitability.

Figure 5 presents a similar story for Alton, Peoria, Rock Island, and E. St. Louis (St. Clair County) farther away from Chicago. The figure shows that Peoria employment was growing relative to the state before the introduction of its casino in November 1991 (month 59) while Rock Island's and E. St. Louis' employment were declining. In the case of Peoria, growth relative to the state appears to stop at about the same time the riverboat was introduced while the trend in Rock Island and E. St. Louis appear to have abated before the casino. In all four cases there is no obvious positive employment impact of the casinos starting with the month of opening. This is consistent with the observation that a large majority of the gamblers in Peoria were from Illinois and for Rock Island with the fact that Iowa had competing casino riverboats.[34]

FIGURE 4: POTENTIAL AND ACTUAL UNEMPLOYMENT EXPERIENCE RELATIVE TO STATE BASELINE

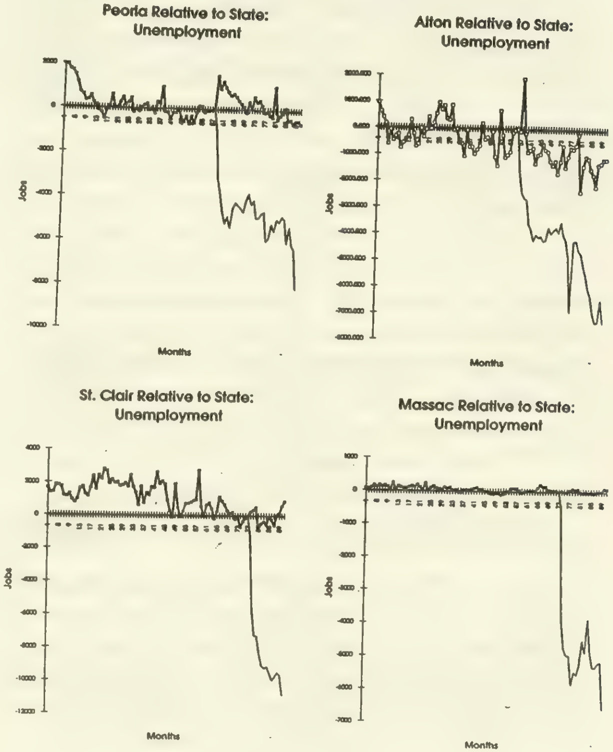
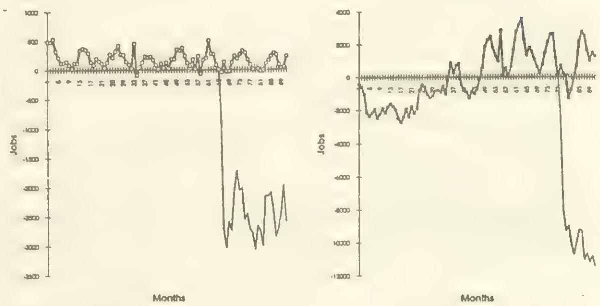


FIGURE 4: POTENTIAL AND ACTUAL UNEMPLOYMENT EXPERIENCE RELATIVE TO STATE BASELINE

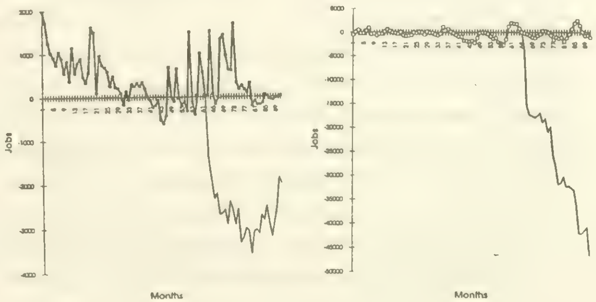
Jo Daviess Relative to State: Unemployment

Aurora Relative to State: Unemployment



Rock Island Relative to State: Unemployment

Joliet Relative to State: Unemployment



In contrast to the other cities, E. Dubuque (Jo Davies County) and Metropolis (Massac County) appear to show a positive impact of the casinos on employment. In both cases, employment is noticeably higher after introduction of the casinos than before, though the effect in each case is a fraction of the potential impact. This is consistent with what one would expect if substantial casino profits and non-payroll expenditures are spent outside the area in question. Large inflows matched by nearly as large outflows means that the casino will have a smaller impact on the economy.

C. *Regression Evidence*

Figures 4 and 5 show that casinos had the potential in principle to reduce unemployment, increase employment, or both, but in practice had little or no effect except in one or two cases

To quantify the impact, linear regressions were run to separate the statistical and economic effects of casinos on unemployment and employment. Seasonally unadjusted county employment and unemployment data were collected starting in October 1987 and ending in July 1994. With two month lags in variables, this allowed the effective sample to begin in January 1988, 46 months before the first Illinois casino began operation in September 1991. From September 1991 to July 1994 eight more boats covered by the sample began operation

For each casino, the data captures at least three years before and one or more years after the boat began operation. The degree of riverboat activity was measured by real monthly revenues collected, adjusted by the monthly consumer price index CPI-U. Regressions were run for all riverboats in Illinois that entered before July 1994. Two regressions were run for each region: one for employment and one for unemployment for a total of sixteen regressions.

For each regression, the final analysis was based on 90 observations and 82 degrees of freedom. To allow for market dynamics, the number of people employed was represented by two lags of past employment, current and two lags of state employment, and the size of casino revenues collected A similar regression was run for the number of people unemployed.

Table 5 reports the results of the regressions. Adjusted R^2 are high in most cases, ranging from .99 to .88 for employment and from .95 to .71 in the case of unemployment. The only exception is the regression for unemployment in Jo Davies County, where the adjusted R^2 was a relatively low .561. The Durbin-Watson coefficients are around 2 as they should be for autocorrelation to be absent.[35]

Casino riverboat sales account for only part of economic activity in the counties in question. Using lagged dependent and state explanatory variables to factor out the general trends maximizes the likelihood of identifying a significant relationship between the casino revenue variable and the level of the economic activity. Even though Figure 5 shows that the potential impacts are large relative to the difference in the state and local trends, the regressions verify that the extent to which the variation in local employment was explained by the casino is small.

Lagged local employment, state employment, and lagged state employment all clearly play an important role in explaining local employment. The coefficients on lagged employment, state employment, and lagged state employment were significant at the 5 percent level or better in every regression. The relevant t-statistics ranged from 2.15 to over 27. Twice lagged state employment was statistically significant in only one regression, suggesting that two lags are sufficient explanatory variables.[36]

In only two cases do the regressions reveal a significant relationship between the presence of casinos and employment. The t-statistic for the casino revenue variable in East Dubuque (Jo Davies County) was 3.64 and was 4.89 for Metropolis (Massac County). Both are areas that showed a positive impact in Figure 5. No regressions showed a significant impact of casinos on reducing unemployment except Alton, an area that showed a probable, though small, impact in Figure 5. The Alton riverboat was the first boat introduced, beginning operation in the aftermath of the 1990-91 recession. This may help to explain its unique position as the only location where casino operation reduced the number of unemployed. Interestingly, the employment regression for Alton did not show a significant impact of the

TABLE 5: Regression Results

$E = a_0 + a_1 E_{-1} + a_2 E_{-2} + a_3 IL\ E + a_4 IL\ E_{-1} + a_5 IL\ E_{-2} + b_0 RBR + e$

$U = a_0 + a_1 U_{-1} + a_2 U_{-2} + a_3 IL\ U + a_4 IL\ U_{-1} + a_5 IL\ U_{-2} + b_0 RBR + e$

Location	Adjusted R2 Durbin-Watson	Riverboat Revenue	Employment$_{-1}$	Employment$_{-2}$	IL Employment	IL Employment$_{-1}$	IL Employment$_{-2}$	Constant
Madison County Alton Alton Belle	0.95 2.01	-0.004 (-0.081)	0.70 (6.395)	0.21 (1.938)	0.02 (18.87)	-0.02 (-5.472)	-0.003 (-1.366)	4282.68 (1.252)
Kane & Kendall C. Aurora City of Lights	0.99 1.98	0.002 (0.048)	0.99 (9.015)	-0.10 (-.903)	0.03 (27.703)	-0.03 (-7.855)	0.003 (.339)	-4940.77 (-1.455)
Jo Davies County East Dubuque Silver Eagle	0.95 1.89	0.240 (3.636)	0.82 (7.213)	-0.13 (-1.257)	0.003 (6.799)	-0.001 (-2.145)	-0.001 (-1.512)	-293.08 (-0.305)
Will County Joliet Empress I&II	0.99 1.77	0.01 (1.077)	1.13 (10.794)	-0.32 (-3.020)	0.03 (20.220)	-0.04 (-9.490)	0.01 (3.232)	-8717.49 (-1.930)
Massac County Metropolis Players	0.88 1.92	0.092 (4.882)	0.61 (5.171)	-0.03 (-.284)	0.001 (4.555)	-0.001 (-2.663)	0.000 (-.084)	1868.57 (2.947)
Peoria MSA Peoria Paradice	0.97 1.96	0.04 (.579)	0.76 (6.786)	0.13 (1.148)	0.03 (19.189)	-0.02 (-5.794)	-0.004 (-1.140)	-6398.52 (-1.213)
Rock Island County Rock Island Casino Rock Island	0.95 1.96	-0.05 (-1.008)	0.87 (7.700)	-0.07 (-.577)	0.01 (16.992)	-0.01 (-6.804)	0.000 (.392)	857.99 (.426)
St. Clair County East St. Louis	0.94 2.02	0.02 (0.707)	0.71 (6.539)	0.24 (2.229)	0.02 (17.454)	-0.01 (-5.334)	-0.003 (-1.628)	2852.62 (.903)
			Unemployment$_{-1}$	Unemployment$_{-2}$	IL Unemployment	IL Unemployment$_{-1}$	IL Unemployment$_{-2}$	Constant
Madison County Alton Alton Belle	0.88 1.99	-0.128 (-2.807)	0.39 (3.549)	0.07 (.634)	0.03 (16.871)	-0.01 (-3.646)	0.000 (.010)	-125.37 (-.261)
Kane & Kendall C. Aurora City of Lights	0.95 2.04	0.04 (1.367)	0.95 (9.553)	-0.06 (-.555)	0.03 (16.258)	-0.02 (-6.100)	-0.01 (-1.947)	384.79 (0.641)
Jo Davies County East Dubuque Silver Eagle	0.56 2.06	-0.004 (-.227)	0.39 (3.855)	0.12 (1.221)	0.002 (4.987)	0.000 (.982)	-0.001 (-4.075)	138.18 (1.517)
Will County Joliet Empress I&II	0.94 2.13	0.001 (.164)	1.03 (10.235)	-0.31 (-2.996)	0.04 (21.549)	-0.03 (-8.021)	0.01 (1.472)	-287.19 (-.591)
Massac County Metropolis Players	0.71 1.98	-0.001 (-1.125)	0.40 (3.827)	0.35 (3.266)	0.001 (8.452)	0.000 (-1.761)	-0.001 (-2.269)	-27.86 (-.618)
Peoria MSA Peoria Paradice	0.97 1.96	-0.02 (-1.050)	0.33 (3.198)	0.37 (3.772)	0.03 (31.323)	-0.01 (-3.055)	-0.01 (-3.598)	-510.74 (-1.414)
Rock Island County Rock Island Casino Rock Island	0.74 2.00	-0.05 (-.923)	0.40 (3.708)	0.07 (.600)	0.01 (9.292)	-0.01 (-2.957)	0.002 (.835)	-352.56 (-.857)
St. Clair County East St. Louis Casino Queen	0.81 2.01	-0.04 (-1.349)	0.58 (5.231)	0.13 (1.221)	0.02 (13.168)	-0.02 (-5.104)	-0.001 (-.366)	1100.01 (1.785)

Notes: Statistically insignificant coefficients are shaded.

casino on increasing employment (the point coefficient is negative meaning that the casino reduced employment, but it is statistically insignificant).

The regression coefficients allow us to assess the strength of connection between the casino and the local market by comparing the job gains estimated in the regression to the potential number of job gains for a given amount of casino revenue collected. In Metropolis, for example, the regression indicates that $1,000 of additional monthly riverboat revenue is associated with an increase of .092 jobs. Since all revenues were scaled to real dollars using the 1982-84 base CPI-U, this represents 12×1,000×1.403 = $16,836 in annual revenues when converted to a 1992 base. Thus, $100,000 of additional casino revenues in 1992 led to .548 additional jobs according to the regression.

What is the potential increase in jobs that could be supported by $100,000 of additional casino revenue? Adjusting for the fifteen percent of gross revenues that are collected as taxes by the state and applying the Illinois Final-demand output multiplier for eating and drinking places,[37] the increase in local output due to $100,000 more casino revenue would be $100,000×.85×2.445 = $207,825 which would translate into 8.64 jobs at the average annual earnings per job in the county for 1992 of $24,046. The observed effect is therefore only 6.3 percent of the possible effect in this case, indicating that a sizable portion of the casino revenues did not come from outside Massac County, or that much of the casino revenue was not spent in the area, or some combination of both. Also, the regressions allow for dynamic adjustment, and the employment effect just computed is small because it is an impact effect that does not allow for later adjustment in employment. Table 6, therefore, performs the preceding computation for both the short run and long run for each of the three areas that had at least one significant coefficient for the effect of casinos.

The table shows that the long run effects are larger than short run effects, although both remain a fraction of the possible. In E. Dubuque and Metropolis, an additional $100,000 of casino revenue after unlimited passage of time generates 4.7 and 1.3 additional jobs, respectively. This is 41.2 and 15.2

Table 6: Effect of Additional $100,000 Casino Revenue on Employment and Unemployment

			Actual		Percentage	
		Possible	Short run	Long run	Short run	Long run
Alton:	**Employment**	8.6	0.0	-0.3	-0.3%	-3.0%
	Unemployment	8.6	-0.8	-1.4	-8.9%	-16.2%
E. Dubuque:	**Employment**	11.3	1.4	4.7	12.6%	41.2%
	Unemployment	11.3	0.0	0.0	-0.2%	-0.4%
Metropolis:	**Employment**	8.6	0.5	1.3	6.3%	15.2%
	Unemployment	8.6	0.0	0.0	-0.1%	-0.4%

percent of the potential impact in each market. In neither market was there a significant reduction in unemployment-- the long run and short run effects in Table 6 were computed only for comparison. In each case the effect was less than 1 percent of the possible.

Alton showed no significant effect of casinos on increasing employment, but did show a significant coefficient on unemployment. In the long run, an additional $100,000 of casino revenue was associated in the sample period with 1.4 fewer unemployed in the region, or 16.2 percent of the potential.

In summary, of sixteen regressions, only three showed statistically significant coefficients for the effect of casinos on employment or unemployment. Of these three, two of the estimates implied labor market effects that were equal to 15 or 16 percent of the potential, and one implied an effect equal to 41 percent.

2. Other Evidence

The absence of an employment effect in most markets and the small size of the effects when found can be explained by direct evidence on three critical factors. First, casinos must export their services to buyers outside the area in order to enlarge the local economy. Providing gambling to residents transfers money from one local pocket to another and from one local sector to another, but does not lead to a net increase in regional demand. Second, assuming that casinos attract outside dollars, they must spend their revenues locally to have an effect on the local market. Casinos that attract large flows of external revenues but remove equally large flows do not enhance the local economy. Third, even when casinos spend locally, as is usually the case with payroll expenditures, it is possible that many of the employees may reside outside the local area[38]--hence this spending is lost to the local economy. Finally, those who are hired may have come to the labor market from outside the area, so that the jobs, while geographically local, do not go to locals who were resident before casino introduction.

Information is available on some of the factors described above. A study of Wisconsin, for example, found that over half of casino patrons lived within 50 miles, and 73 percent within 100 miles.[39] In Minnesota, losses for all gamblers were $590 million in 1991, of which $550 million, or 93.2 percent came from in-state gamblers.[40] In Peoria, 9 out of 10 patrons were in-state gamblers. In the case of Wisconsin, 79.8 percent of gamblers came from in-state and 15.1 percent came from nearby states of Minnesota, Illinois, Iowa, and Michigan.[41]. Since each of these states have casinos, we would have to subtract gambling by Illinois travelers in these states to determine the net impact of Illinois casinos on increasing revenue to the state.

The effect of casinos on diverting revenues from restaurants, other forms of gambling such as dog tracks and racetracks has been cited frequently. In Iowa, one restaurant reported its sales dropped 35 percent since the nearby casino introduced slot machines and in Louisiana the figure was 42 percent.[42]. In Illinois, restaurants reported closing because of loss of demand due to casino competition, one owner reporting his business dropped by 50 percent from $4,000 per month to $2,000 per month. Such drops necessarily result in lost jobs that must be balanced against gains in the casinos.

IV. Summary and Evaluative Discussion

Gambling fails a simple cost-benefit test. Compared to a prohibition that allows gambling in Atlantic City and Nevada only, the annual benefits of expanding casino gambling so that a casino is within 35 miles of every adult is $83.50 per adult, taxes and increased producer surplus to casino owners is $28.70. This totals $112.30 in benefits compared to $112 to $338 in direct social costs. Were we to correct taxes and increased producer surplus for money taken from problem and pathological gamblers, the net benefits would be smaller. The direct costs included in the computation consist of the apprehension, adjudication, and incarceration costs from gambling-addiction-related crime, lost productivity costs, and direct regulatory costs. To the extent that these cost estimates do not include hard-to-quantify damages that are known to be associated with gambling such as increased suicide, family deterioration and reduced income from directly unproductive profitseeking, the cost figures understate true costs

The preceding comparison completes the cost-benefit analysis for the nation as a whole since national employment levels are determined by macroeconomic conditions independently of the presence or absence of casinos. For a region, however, casino promoters often argue that gambling is a development tool. Las Vegas, for example, has larger employment at the expense of California because it exports gambling services. Regional casinos, however, may be only casinos of convenience to the nearby population and therefore not have the same impact.

Considering the evidence presented here, regional economic development does not appear to be a reason to turn to casino gambling in practice, even though the theoretically possible contribution could be large in principle. Of sixteen regressions, only three showed any relationship between the introduction of casinos and increased employment or reduced unemployment. In the three cases where an effect was found, it was 15 and 16 percent of what was possible in two cases, and 40 percent in another. With time, greater competition from casinos in regions near the casinos that were examined will probably work against employment effects. In the case of Alton, for example, the subsequent introduction of casinos in St. Louis will probably diminish the impact of the Alton casino. The negative cost-benefit assessment, therefore, is unlikely to be outweighed by consideration of development effects in most regional circumstances.

In spite of its social impact, casino gambling is profitable to developers and private casino owners. In this respect it is part of a group of goods and services including alcohol, illegal drugs, and tobacco where private interests conflict with overall public interests.

Further research is needed to answer a number of questions raised by this study. For example, we used available studies of social costs that were derived primarily from individuals in treatment for gambling problems. Since not all of those with gambling problems seek treatment the social costs could be larger than suggested. By looking just at the social costs of pathological gamblers, and omitting problem and other gamblers, it fails to measure some of the lesser types of damage that may be more

widespread. On the other hand, those who seek treatment might be predominately those with the most socially costly problems and thus be unrepresentative of pathological gamblers. This would mean the estimated costs for pathological gamblers are too high if our estimates of the frequency of pathological gambling are correct. Either way, by performing the cost-benefit analysis with the best figures currently available we have learned that the problem is potentially serious and that better numbers are needed.

Finally, the evidence presented here suggests that casino gambling relies surprisingly heavily on the revenues of problem and addicted gamblers. If the industry is intrinsically tainted by this reliance, is there a way to allow casino gambling while simultaneously preventing problem and pathological gambling? This paper compared two extremes: complete prohibition (except for Atlantic City and Nevada) on one hand, and a casino within 35 miles of every adult on the other. It found that complete prohibition was preferred, but more research is needed before we can say whether other alternatives including treatment and regulation are feasible. The evidence seems to point to a negative answer but it would be desirable to have greater certainty.

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APPENDIX

One of the less well studied aspects of gambling as an industry is the extent to which casino gambling revenues are dependent on the losses of problem and pathological gamblers. Information from gamblers in treatment, however, provides information on such variables as the size of gambling losses, gambling-related debt, and years of gambling. Connecticut is useful to a study of pathological gambling because it is home to the Foxwoods Resort Casino near Preston, North Stonington, and Ledyard, CT that began casino operations in 1992.[1] In terms of revenues it is the largest casino in the United States, taking in over $800,000,000 annually. 22 million people live within 150 miles of the casino compared to 30 million people for Atlantic City. Foxwoods also enjoys a regional monopoly as the only casino in New England.

A profile of Connecticut problem gambling based on state compulsive gambling hot line calls in 1994 (see Baldelli (1995)) found average lifetime gambling losses for males of $60,245 and $62,038 for females. Average years of gambling were 9 years for males and 5.3 years for females. Implied losses per year were therefore $6,694 and $11,705, respectively. The average number of years of a gambling problem was 3.3 for females and 5.3 for males. We might expect that losses per year would be higher during years of gambling problems than during other gambling years. The self-reported share of gambling problems in casinos was 51 percent for males, and 69 percent for females. 45 percent of males, and 72 percent of females said that their gambling problem did not exist prior to Foxwoods. 73 percent of the sample was male and 27 percent female.

Based on British Columbia data, Deloitte and Touche (1994), p. 70 suggest that 37 percent of spending by problem and pathological gamblers will be in casinos. Assuming that 37 percent of gambling losses were in casinos for those in the Connecticut sample who said their problem existed prior to Foxwoods, implies that those without problems prior to the Foxwoods had casino losses of 68 and 81 percent for males and females, respectively, if the overall sample lost 51 and 69 percent in casinos as reported by the survey. Rather than attribute 51 and 69 percent of gambling losses to casinos, however, we use the smaller figures of $.45\times.51+(1-.45)\times.37 = .433$ and $.72\times.69+(1-.72)\times.37 = .6004$ as the percentage of losses to casinos by males and females, respectively. This suggests that $.73\times.433\times\$6{,}694 + .27\times.6004\times\$11{,}705 = \$4{,}013$[2] is the amount lost annually to casinos by problem and pathological gamblers based on the Connecticut data. This figure is conservative for several reasons: (1) It does not take into account that losses per year are likely to be higher during years of gambling problems than during other gambling years. (2) It uses a smaller share of losses to casinos.

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[1] Prior to the original casino, Foxwoods engaged in a high stakes bingo hall starting in July 1986.

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[2] Using 51 and 69 percent as the share lost to casinos would imply that the average problem and pathological gambler had losses to casinos of $.73\times.51\times\$6{,}694 + .27\times.69\times\$11{,}705 = \$4{,}673$ per year.

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[1] "It is widely believed in the 1990s that anyone, including government can get rich quick. All one needs to do to grab a piece of the action is to own, operate, or tax some form of legal gambling....This delusion is a typical symptom of a classic speculative bubble." Rose (1995).

[2] Smith (1776, reprinted 1952), p. 194. Smith computed that buyers were willing to pay a premium, or overpayment relative to a fair bet, by 20 to 30 percent, figures that continue to apply today.

[3] Investors seek to avoid, minimize, and be compensated for risk through positive expected returns while gamblers add risk with negative expected return to their portfolio.

[4] Directly unproductive profitseeking activity refers to "ways of making a profit (i.e., income) by undertaking activities which are directly unproductive; that is, they yield pecuniary returns but produce neither goods nor services that enter a conventional utility function directly nor intermediate inputs into such goods and services." Bhagwati, Brecher, and Srinivasan, (1984), p. 291. An individual who does not gamble for utility value, but to acquire money engages in income-reducing directly unproductive activity. Samuelson (1970), p. 402, described the economists' case well as follows: "There...is a substantial economic case to be made against gambling...it involves simply sterile transfers of money or goods between individuals, creating no new money or goods. Although it creates no output, gambling does nevertheless absorb time and resources. When pursued beyond the limits of recreation, where the main purpose after all is to 'kill' time, gambling subtracts from the national income."

[5] Pathological gambling is formally recognized as "persistent and recurrent maladaptive gambling behavior as indicated by five (or more) of" ten items including "has committed illegal acts such as forgery, fraud, theft, or embezzlement to finance gambling," and "has repeated unsuccessful efforts to control, cut back, or stop gambling." The American Psychiatric Association (1994), p. 271.

[6] The extent of casino gambling varies by time, location, and demographics. University of Michigan Survey Research Center (1975) reports that 30 percent of their national sample had gambled legally or illegally in 1974 (not including state lotteries.) Harrah (1993), pp. 12, 13 reports that nearly 22 percent of U.S. adults made at least one trip to a casino in 1991, and estimate that 50 percent of adults have gambled at a casino at some point. They report that 45 percent of respondents felt gambling is not suitable for themselves. In a survey of gambling participation in Iowa, a state that introduced its first riverboat casino in March 1991, Volberg (1995), pp. 7, 8, finds that 28 percent of the sample had not participated in any form of gambling in the past year. 54 percent had played slot machines at casinos (32 percent in the past year) and 27 percent had played casino table games (15 percent in the past year), so that no more than 47 percent had gambled at casinos in the past year. (Information on percentages in the past year were supplied by Volberg to the author directly.)

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[7] See Volberg, (1993), p. 370.

[8] Maryland Task Force (1990), pp. 61, 105 reports from a sample of Gambler's Anonymous members that 61 percent reported committing illegal acts, 37 percent had stolen, 28 percent owed state taxes, 23 percent had been charged with a criminal offense, 10 percent had received some form of probation and another 10 percent had been jailed or given a combination of jail and probation. Interestingly, during the worst of their gambling 38 percent reported that they drove differently, 47 percent speeding more often and 10 percent receiving more moving violations. Fully 80.2 percent admitted to having committed a civil offense due to their gambling.

[9] Lost productivity costs are distinguished from DUP-related income losses. DUP-related income losses would be associated with a professional gambler, for example, while lost productivity would better describe a recreational gambler who loses control due to gambling and suffers job productivity losses.

[10] Unlike most other forms of entertainment, gambling has associations with three major types of crime: white collar crime, street crime, and organized crime.

[11] See Kindt (1994a, 1994b, 1995), Goodman (1994), Grinols (1994, 1995).

[12] Four social costs of gambling are crime-related costs, lost productivity costs, direct regulatory costs, and DUP costs. A fifth, more difficult to quantify type of cost, relates to consequences such as family disintegration, child and spouse abuse, increased car accidents, suicide, and mental suffering of the gambler and those around him. LeSieur (1992), for example, connects pathological gambling and suicide, reporting that pathological gamblers are between 5 and 10 times more likely to commit suicide than the general population. We also know that inexpensive alcohol is frequently a promotional tool of casinos. Nevada, which has had legalized gambling since the 1930s and owes more than half its employment to the gambling industry, provides an interesting study. Nevada has the highest suicide rate in the nation according to the 1994 U.S. Statistical Abstract, and more than double the national average. Nevada has among the highest divorce rate and the highest rate of child death by abuse in recent years (the latter figure applies for the period 1979-88 when casino gambling was illegal in other parts of the nation except Atlantic City), and among the highest rate of accidents per vehicle mile driven. Nevada also shows up prominently in other problem statistics including school dropout rates and crime. See also footnote 9.

[13] Politzer, Morrow, and Leavey (1981) estimate that $11,265 is lost annually in productivity costs per pathological gambler. The *Task Force on Gambling Addiction in Maryland* (1990), p. 59 gives a total cost figure of about $20,000 per addicted gambler in 1980 dollars ($33,500 in 1995 $). Goodman (1994), revising estimates based on Politzer, Morrow, and Leavey, conservatively reports total costs of $8,800 ($15,000 in 1995 $). *Casinos in Florida* (1994), p. 72 estimates that the incarceration and supervision costs alone of 266,667 problem gamblers in Florida would be $6.09 billion, or $22,830 per gambler. Adjusting for price level changes, and adding the lowest lost productivity cost estimate to the incarceration and supervision cost figure from Florida implies social costs of $37,600 per pathological gambler. Using the minimum and maximum of the above figures independently, implies a more conservative range of costs from $15,000 to $33,500. To the costs just enumerated, must be added the direct regulatory costs of gambling. Illinois spends $65 million in regulation, for example, (New Jersey spends $59 million), or about $7.59 per adult.

[14] Assuming a prevalence rate of 1.38 percent (the population-weighted average pathology rate for studies of New York (1986), California (1990), New Jersey (1988), Maryland (1988), and Massachusetts (1989) reported in Volberg (1993), p. 370 and Iowa (1995) in Volberg (1995)), direct regulatory costs of $7.00 per adult (see preceding footnote) and costs per pathological gambler of $15,000 implies social costs of $210 per adult. Assuming 2.3 percent of adults as pathological gamblers (the rate reported for Massachusetts) and per gambler costs of $33,500 implies the higher figure.

[15] *Gambling in America* (1976), pp. 73-74 gives the rate of gambling addiction for the nation when only Las Vegas offered legal casino gambling as.77 percent of the population. Studies performed after the spread of gambling generally find higher rates, suggesting an increase in the prevalence of pathological gambling between .75 and 2.25 percent. The rate of gambling addiction reported in the same report for Nevada was 2.63 percent, for example, a difference of 1.86 percent. In the most recent study available, the percentage of pathological gamblers in Iowa rose .9 percentage points between 1989 and 1995, a period that saw horse racing introduced in 1989, riverboat casinos begin operation in 1991, with 3 operating in April 1994 and 6 operating in December 1994, Volberg (1995).

[16] Computed by the author using information in Deloitte and Touche (1992), pp. 83, 92, 150.

[17] For example, dividing the average lifetime gambling losses by the average number of years of gambling in a survey of gamblers seeking Connecticut gambling hotline help implies losses of $11,705 and $7,467 for females and males, respectively (Baldelli (1995), p. A5). Studies of pathological gamblers frequently find average gambling-related debts exceeding $55,000. The survey data in Lorenz (1990), p. 103 implies average debt of $74,000.

[18] Harrah (1993) and Volberg (1995) suggest that these are no more than 78 and 53 percent of the population, respectively. Since we are interested in the percentage of revenues to casinos due to the 4.11 percent of the population who are problem and pathological gamblers, the percentage of nonbettors does

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not matter to that number. Since casino gambling is becoming more widespread, we assume 50 percent of the population are nonbettors , a number closer to the more recent figure.

[19] See footnote 14.

[20] See Appendix.

[21] National Council on Alcoholism and Drug Dependence, 1995, *Fact Sheet*, p. 1.

[22] Casino gambling has been available in Las Vegas since the 1930s.

[23] I.e., when firms face prices P, PY is firm profits.

[24] We assume that D is monotonic in V which is true for our data.

[25] Authors' computations based on Deloitte and Touche (1992), pp. 83, 92, 137, 147, 150.

[26] The curve in Figure 1 is lowered at each point by 52 percent so that only nonproblem and nonpathological gamblers' revenues remain.

[27] The benefit figures in Table 3 are probably marginally too high for the usual reason that the benefit due to a price improvement—or in this case distance improvement—estimated from a market demand is too high. Each point on the curve in Figure 1 should correspond to the same level of utility. Ceterus paribus, however, a gambler with a casino nearby will have higher utility than when the casino is further away. Were utility lowered to the original level by reducing the gambler's income, the curve in Figure 1 would shift left. The leftward shift would reduce the area under the curve, and hence the size of the surplus figure. The correction is likely to be small, however.

[28] Foxwoods Resort in Connecticut, the largest grossing casino in the United States, spent $383 million annually for payroll, goods, and services to serve 40,000 to 45,000 visitors per day. *The Day*, New London, Connecticut, 30 April 1995, p. A4.

[29] To the extent that reduced in national income due to DUP activity is not accounted for, the negative externalities from those who would pay NOT to have a casino located within 35 miles are not accounted for, and the small overstatement of benefits to those who prefer nearer casinos are not accounted for, the cost-benefit test is even more unfavorable to gambling.

[30] Thompson (1994), p. 398, speaks for many gambling experts, "The employment increases resulting from most gambling operations are illusory."

[31] Iowa's casino riverboat opened in March 1991.

[32] The riverboat in Joliet, Illinois nearly tripled the $7 million of its original investors in less than six months of operation.

[33] Conservatively using the relatively small multiplier of 2 makes the potential effect of the casinos smaller. Even so, their impact is significant as the figures indicate. All dollar values were adjusted for

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price level changes through time. The expenditure per job was assumed to be $22,000 in September 1993 dollars.

[34] Based on Peoria, Cook assumes 92 percent of gamblers will be from within the state. Cook (1993), Summary, pp. 2, 3.

[35] More precisely, if this coefficient is greater than 1.86 in our case, then there is less than 5% chance for positive autocorrelation. In all regressions except one the D-W coefficient is greater than 1.86 and close to 2.

[36] No third lags were statistically significant.

[37] See *Regional Multipliers* (1992), p. 16.

[38] This is the case in Joliet, where 59 percent of employees live outside the city and one third of employees live outside the county.

[39] Thompson, Gazel and Rickman, (1995), p. 21.

[40] Whereatt, (1993), p. 16A.

[41] Figures for the number of out-of-state gamblers at a casino vary by time of year. In summer months, the number of gamblers traveling from other states rises. The percentage of gamblers from out of state dropped from 30 percent to less than 20 percent between August and October for the casino in Baraboo, Wisconsin, well situated near the main interstate corridor. Thompson, Gazel and Rickman, (1995).

[42] Bowers (1995), pp. 1B, 5B, Ansley (1995), p. 20. These experiences confirm earlier reports of Goodman (1994), p. 52 that restaurant business within a 30-mile radius of casinos with food service fell by 20 to 50 percent in states like Minnesota.

Mr. HYDE. Thank you very much, professor.

The next witness is Mr. Richard G. Hill, the chairman of the National Indian Gaming Association.

Mr. Hill.

STATEMENT OF RICHARD G. HILL, CHAIRMAN, NATIONAL INDIAN GAMING ASSOCIATION

Mr. HILL. Thank you, Mr. Chairman.

Is this on, the button here? Thank you.

Mr. Chairman, I would like to make sure that the National Congress for American Indian testimony would be inserted into the record as well as the NIGA's.

Mr. HYDE. Without objection, we will do that.

Mr. HILL. Thank you, Mr. Chairman.

[See appendix 6.]

Mr. HILL. As stated, my name is Rick Hill. I am the chairman the National Indian Gaming Association. NIGA's membership is composed of 140 Indian nations whose tribal governments are involved in gaming enterprises undertaken to support their governmental operations and programs.

NIGA was formed by the tribes to protect their sovereign governmental rights in this area and to support their gaming interests before the Congress and elsewhere. We also have 43 associate members who have interests in Indian gaming. On behalf of our membership, I want to express our appreciation for being able to comment on H.R. 497.

There is much confusion surrounding Indian gaming. NIGA has had to spend a lot of time explaining basic square one Indian legal rights to Congress and particularly to the new majority members and their staff.

Donald Trump and the Congressmen who introduced legislation on his behalf, as well as erroneous one-sided news reports have left a false and stereotypical impression of Indian gaming. Mosts tribes are still in dire need. Revenue on Indian reservations, including gaming revenues, is needed now more than ever.

Let me state for the record, Indian nations' sovereignty or the ability to govern ourselves and provide for the general welfare of our people has always existed. Indian nations predate the existence of the United States. Treaties signed with the United States in exchange for this very land that the United States sits upon today guarantee tribes continued recognition and treatment as sovereigns. Federal courts have long recognized Indian sovereignty. The U.S. Supreme Court has recognized our sovereignty for over 160 years.

The most important case as it relates to sovereignty and Indian gaming is the 1987 case, *California* v. *Cabazon*, which upheld the rights of the tribes to conduct gaming on Indian land free of State control where similar gaming is permitted by a State outside the reservation.

Tribal operation governmental gaming is similar to States'. Generally, we both use it to raise revenues for our governments: State lotteries are 36 percent of all gaming, tribal gaming is only 7 percent. Indian passing revenues are regulated and specifically designated by law in IGRA to fund governmental operations or programs, to provide for the general welfare of the Indian tribe and its members, to promote tribal economic development, for charitable causes, and to help causes and to help fund operations of the local government.

Tribes are not corporations. Tribal gaming is not corporate gaming.

Some of the demographics of Indian gaming are instructive: There are 557 Federally recognized tribes, of these approximately 130 operate class III gaming establishments, less than one-third of the tribes. Further, only a handful of the tribes have significant revenue. Only two gaming tribes are distributing substantial per capita payments to members. These payments by law are taxed by the Federal Government.

It is obvious that the statement by Trump and those Congressmen carrying his message saying that all Indians are rich is untrue. Tribes remain in need. Two hundred and twenty-two years of failed government policy in: Education, with bad schools, no money for supplies, and kids not graduating; in health care, with poor facilities, high susceptibility to disease, high addiction rates, high immortality rates, rates of a Third World country, an average adult life span of 50 years or less; in housing with a majority of houses substandard, and a lot of our members still live in reservation areas in single dwellings; and no economics, with no industry or failed industries, no businesses, no jobs, high employment costs and high welfare costs.

Tribes were moved, as we all remember the Trail of Tears and other movements by this Government. Our people live in very isolated areas with no opportunity to have infrastructure for economic development, as opposed to Trump, who lives in a palace and was born with a silver spoon.

Now how has gaming helped the tribes: It is a means for and designated by law to promote tribal government, economic development, self-sufficiency, and to help build strong tribal governments. I am glad to say where there has been successful gaming, the intent of the IGRA law, where Congress had pointed us in this direction, though we had an inherent right do such before IGRA was passed, there has been success in these areas. However, we still face many obstacles, where States are not willing to sit down and negotiate compacts on a reasonable basis as Congress had expected States to do.

One hundred percent of these—let me go back to the revenues on the—what do you call this? Go back. There is 100 percent tax on—some of the tribes have been able to do per capita; there is 100 percent tax on that.

Let me add that the money that has been generated by our casinos is 100 percent offset for Federal taxpayer cost. Let me give you an example, in Oneida, WS, where we were able to float a $16 million bond because of gaming revenues to build our Indian school. Without gaming revenue, we would have been on the BIA waiting list until who knows when.

In terms of health facilities at Mille Lacs and other Indian communities where they have been able to generate these dollars, have been able to do bond issues, they have built clinics. Otherwise, the tribe would have waited forever to have adequate health care for our people. So we are able to do some positive things to improve the quality of life for our people. The revenues are spent and recycled at the local level with goods and purchases. We are building good relationships with the local business community by buying these goods and services.

My tribe alone has a $1 billion economic impact on the local economy. We have 6 million customers that come to our facilities. We have a larger impact than the Green Bay Packers on the local economy in Green Bay, WI. And God knows, they have had some bad seasons recently.

The revenue also benefits the States, the counties, the cities, local towns, and the local businessmen as well as some individuals. The revenues as I cited serve a whole lot of useful purposes in terms of day care, elderly centers, police departments, fire departments, court systems, roads, social services, hospitals, and scholarships for education.

In terms of jobs, Indian gaming has produced over 290,000 direct and indirect jobs nationwide. Approximately 85 percent of these jobs are held by non-Indians.

With Federal budget reductions, Indian gaming revenues are even more important now.

A level playing field. A fallacy that Indian gaming must compete with or harms for-profit gaming. New Jersey and Nevada profits are increasing. And we know that States can amend their laws at any time. A fallacy to protect Donald Trump.

One of the originally predicted problems for Indian gaming was "organized crime." Let me report that the Justice Department and the FBI have testified at least on four different occasions that there is no intrusion of organized crime—into Indian gaming. The two or three times that criminal elements tried to infiltrate Indian gaming, they were discovered and reported by the tribes.

And let me add, with the infrastructure, the tribes have been able to put together, they have identified these issues and these problems and have notified local law enforcement agencies or the appropriate agencies to take care of such matters. So the tribes are being very responsible.

Problem gamblers. Tribes understand and abhor addiction problems more than most people. One problem gambler is too many. And let me add that MIGA—the Minnesota Indian Gaming Association—as well as the Pequots, the Oneidas, and others, have implemented problem gambler education courses for their staff, for their people, for their community, and alike for people who could recognize and deal with these situations.

Management companies. Recited in the law, management companies get up to 40 percent in these management contracts. There have been unscrupulous management companies, but the same case still holds true: The Indian communities are very small, the moccasin telegram, word of mouth, and examples of who is not being credible in the management field have been recognized. These people are being weeded out.

Mr. HYDE. Mr. Hill, could you bring your remarks to a close.

Mr. HILL. Just about done.

Mr. HYDE. Are you? Go right ahead.

Mr. HILL. But I wanted to make sure—I wanted to get my remarks into the record.

Mr. HYDE. Surely.

Mr. HILL. NIGA does not object to H.R. 497 if fairly applied to all the tribes, and if applied to all gaming, including State lotteries. I understand the lotteries weren't available to testify, but they should be included in this as well. The positive aspects should also be studied as well, and not just the negative side, and this commission should keep an open mind.

Some amendment recommendations: To make sure that we add two credible Indian people to the Commission; they should be members of federally-recognized tribes, with experience and expertise. I reiterate that it would be irresponsible to ignore 30 percent of the markets, and not study the lotteries. It is unfair to study tribal gaming, and ignore State governmental gaming.

Make specific the study of positive revenue aspects. Remove provisions to study whether Indian gaming should be placed under State jurisdiction. Indian gaming is part of our sovereignty. For all the various reasons we would say that.

There is also a process that has been going on for an extensive period of time referencing Indian gaming on the Senate side, led by Senators Inouye and McCain. I would encourage this committee to support this process as it references Indian gaming as they have spent an inordinate amount of time and hours studying these particular issues, and we have been under that microscope since 1988.

One last comment, Mr. Chairman, I want to read verbatim for the record here. It comes out of the Congressional Record. However, I would like to read it for everyone now.

One of the greatest Members of the House of Representatives and one of the greatest advocates for Indians to have served in the House was former Congressman Morris K. Udall. On July 6, 1988, Morris Udall made a statement on the floor of the House in defense of Indian gaming, and I would like to quote from this statement. He said, and I quote, "While I am personally opposed to gaming and, in particular, government gaming, I am afraid the time for moral outrage is passed. Gambling as a source of government revenue and charitable funding is too well-established to raise moral arguments against the Indians."

Mr. Chairman, that is the end of my statement, and I would be open to questions.

[The prepared statement of Mr. Hill follows:]

PREPARED STATEMENT OF RICHARD G. HILL, CHAIRMAN, NATIONAL INDIAN GAMING ASSOCIATION

Mr. Chairman, my name is Rick Hill, Chairman of the National Indian Gaming Association. NIGA's membership is composed of 140 Indian tribes whose tribal governments are involved in gaming enterprises to support their governmental operations and programs. NIGA was formed by the tribes to protect their sovereign governmental rights in this area, and to support their gaming interests in the Congress and elsewhere. We also have 43 associate members comprised of entities which have an interest in Indian gaming. On behalf of our member tribes, I want to express our appreciation to you for this opportunity to present our position on H. R. 497, the National Gaming Impact and Policy Commission Act.

GENERAL COMMENTS

Indian gaming represents only about 7% of the entire legal gaming industry in the United States. By way of comparison, Indian governmental gaming is dwarfed by the other form of governmental gaming, State lotteries and associated state-operated gaming, which comprises 37% of the industry. Commercial gaming, including casinos, horse and dog racing, OTB, and jai alai, represents 36% of the industry. The remaining 20% is composed of charitable gaming activities and miscellaneous gaming. Of the 550 Federally recognized Indian tribes in the United States, only 130, or less than one-fourth, have class III Indian gaming enterprises. These class III facilities are located in 25 states, as compared with the 37 states which have lotteries.

We understand that this bill, calling for a study of national gaming activity, may be opposed by the non-Indian commercial gaming industry, by State governments operating lotteries and other forms of gaming, and by the national charitable gaming industry. We can understand, and sympathize, with that opposition because these groups can see the heavy hand of Federal regulation and taxation arising from such a study.

But, Mr. Chairman, despite unfounded allegations to the contrary, Indian gaming is the most regulated and scrutinized form of gaming in the United States. In 1988, Congress enacted the Indian Gaming Regulatory Act to protect gaming by Indian tribes "as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments". It was also passed to:

> "(P)rovide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of gaming operations, and to assure that gaming is conducted fairly and honestly by both the operator and the player".

Out of the pre-existing power of tribal self-government, and Federal civil and criminal jurisdiction over aspects of tribal activities, and out of IGRA itself has arisen a complex, comprehensive web of regulations affecting Indian games.

Civil regulations and oversight of Indian gaming is maintained by tribal governments themselves, by the Bureau of Indian Affairs and the Secretary of the Interior, by the National Indian Gaming Commission, by the Internal Revenue Service, and by State governments under class III gaming compacts. Criminal jurisdiction over crimes directly related to, or growing out of Indian gaming, is vested in the tribal law enforcement personnel, BIA law enforcement, the Federal Bureau of Investigation, the Justice Department, the Internal Revenue Service, and the States themselves in certain circumstances. What other form of legal gaming in this country is so infested with government regulation and control?

NIGA, in cooperation with the National Congress of American Indians, has formed a Indian Gaming Task Force to consider pending legislation and other actions affecting tribal gaming, and to develop a general position on such legislation and actions. On August 7, 1995, the Task Force agreed that, in regard to a proposed national study as envisioned by H. R. 497, consideration should be given to the application of Federal minimum standards to all gaming, whether conducted by or for the benefit of private, commercial, state, charitable or tribal governmental interests.

So, Mr. Chairman, while we may sympathize with the concerns of other segments of the gaming industry to the national study proposed by this bill, the tribes would have no objection to such a study if certain tribal concerns were addressed in the bill. First, any such study must remain a national study which will fairly and objectively look at every segment of the industry, including state government gaming activities. Second, as the bill requires that state interests be represented on the study commission by a governor, we insist that there also be an Indian tribal representative on the commission. Finally, the commission, in any consideration it gives to Indian gaming, should be required to consider such gaming in the context of the sovereign powers of tribal government, and the government-to-government relationship between the United States and Indian tribes.

Why would we have no strong objection to this bill? Because, Mr. Chairman, our share of the gaming industry has already been subject to intense, often unfair and distorted scrutiny, by the press, the Congress, Executive agencies, by the several states, and by many anti-Indian gaming forces. For the last seven years, Indian gaming has been put under a public microscope. Reams of newspaper and magazine articles and comments have been written on our efforts, often with little or no objective journalistic investigation. Scores of national and local TV and radio programs and talk shows have focused on, and I quote, "the Indian gaming problem". Hours of House and Senate committee hearings have been allocated to congressional oversight of our efforts. What has all this attention to 7% of the legal gaming industry in this Nation shown?

From the very beginning of the growth of gaming as a means of raising tribal revenues, the opponents of Indian gaming, who perceived their economic interests to be threatened, have predicted a whole litany of evils which would result from Indian gaming. They have been quick to predict that organized crime would take over Indian gaming, and use Indian casinos for money laundering and skimming. Further, they asserted that un-organized crime, in the form of prostitution, robberies, and muggings would overwhelm the reservations and surrounding communities. Management companies would rip off the tribes, and corrupt tribal officials would embezzle all the profits.

It has been ten years since Indian gaming began to grow and seven years since enactment of IGRA. My own tribe, the Oneida of Wisconsin, has been involved in gaming for 20 years. To the chagrin of our opponents, the dire predictions they forecast for Indian gaming did not come true, and their scare tactics have not worked. Organized crime has not taken over Indian gaming. Witnesses representing the Justice Department and the FBI have appeared before Congressional committees on four occasions in the last four years, and expressly stated that they have no evidence of organized crime infiltration of Indian gaming, and only a few cases where some low level attempts may have been made. In those few cases where any semblance of organized crime has touched Indian gaming, it has been detected and eliminated, in most of those cases with initial action taken by the tribe itself.

There has been some small increase in local crime and community disruption which could fairly be attributable to the presence of tribal casinos. It would be surprising if that did not occur. Economic success brings economic opportunism. In fact, Mr. Chairman, what tribes are experiencing is a net decrease in crime. This decrease comes in the areas of crimes of poverty: spousal and child abuse, domestic violence, small thefts, assaults and batteries, and other violations which spring from poverty, unemployment, alcoholism, and despair.

What did come true was the promise that gaming held for Indian tribes to provide a better future for their impoverished people, the promise that Congress sought to protect and foster in the enactment of IGRA. Several national and state-wide studies have already been made of the economic and social impact of Indian gaming. They have shown that about 290,000 jobs have been created nationwide, with about 85% of those jobs held by non-Indians. Unemployment rates on and near reservations with Indian casinos have significantly decreased. Public assistance rolls and costs have dropped sharply. Small business activity has increased, and subsidiary businesses have been created. The tax base for city, county, state and Federal governments have gone up.

Attached to my statement is a representative list of the studies which have been conducted, and which set out in detail the results which I has discussed. The list includes studies done in Michigan, Wisconsin, Minnesota, Connecticut, New Mexico, and Washington. The studies were objective and conducted by highly regarded organizations or institutions, such as Deloite Touche, Peat Markwick, and Coopers and Lybrand. The Deloite Touche study was commissioned by NIGA to look at the national impact of Indian gaming.

As important as these studies have been in examining the social and economic impact of Indian gaming on the reservations and nearby non-Indian communities, the impact of Indian gaming can only be fully appreciated when viewed at the tribal government level. Indian gaming is not commercial gaming like the Trump Palace of New Jersey or the hundreds of casinos in Nevada. If Indian gaming, which is governmental gaming, must be compared, it should be compared with the gaming operations of state government, such as state lotteries.

Tribes use their gaming revenues to support tribal government, and a whole host of tribal government programs. Not only is this the reason tribes have gotten into this industry, it is a requirement of Federal statute. IGRA, Section 11(a)(2)(B) provides that net revenues from Indian gaming may not be used for any purpose other than--

> (1) to fund tribal government operations or programs;
>
> (2) to provide for the general welfare of the Indian tribe and its members;
>
> (3) to promote tribal economic development;
>
> (4) to donate to charitable causes; and
>
> (5) to help fund operations of local government agencies.

To make the point of the impact and importance of gaming revenues on tribal government, it would be help to look at some actual examples of how tribal gaming revenue is expended.

> The Sycuan Tribe of California has used its gaming revenue to build, among other things, a health center, a library, and a medical clinic, and to fund a fire department.
>
> The Sandia Pueblo of New Mexico has built a wellness center, and the Miccosukee Tribe of Florida supports its own police department.
>
> The Fort McDowell Indian Community of Arizona has built and funded new homes for their members, a health care center, a day care center, a day school, new police facilities, farm projects, legal services and many other benefits.

> My own tribe, the Oneida Nation of Wisconsin, has used some of its gaming funds for the Oneida tribal elementary school; the Bay Bank, recently approved by the Federal Reserve Bank; a senior citizens center; and an industrial park with a Walmart, Sam's Wholesale Club, and other small retail shops.

In many cases, Mr. Chairman, tribes are using their net gaming receipts to meet critical needs of their governments and members in the areas of health, education, housing, welfare, economic development, and infrastructure. These are services which the United States has long had a trust responsibility to provide to tribes, and which it has uniformly failed to provide.

The very beneficial impact that Indian gaming has had on the social and economic conditions on the reservation and surrounding communities, and on the possibility of some degree of tribal self-sufficiency has not gone un-noticed by the general public. While there is a strong anti-Indian gaming force in the Congress and in other segments of the gaming industry, I think that your committee will be very surprised at the strong support for tribal gaming efforts among the general public. Surveys and public opinion polls have been conducted in several states on the question of Indian gaming. These polls include a national poll, and polls in the states of Washington, California, Arizona, Kansas, New Mexico, and Nebraska. Without exception, Mr. Chairman --- I repeat --- without exception, these polls show that the general public, while opposing the expansion of gaming in their states, strongly support Indian gaming. The range of support was from 58% in Kansas to 78% in Nebraska. While some politicians may not support Indian gaming because of pressure from special interest groups, the public does support Indian gaming because they realize the importance of tribal gaming revenues in lifting tribes and their members from deprivation and poverty, and because they recognize Indian gaming as a recreational activity in which they would occasionally participate.

Finally, Mr. Chairman, I would like to address the issue of the morality of gambling. That issue will be raised in this hearing, and in any study which might be made of gaming. There are many citizens across this nation who view gambling and gaming activities as immoral, socially-corrupting activities. Some of the members of Indian tribes feel the same way. The citizens of the Navajo Nation, the largest Indian tribe in the country, recently voted to reject gaming as a source of revenue for their government programs, in large part, I suspect, because of the moral arguments. But I do not think, Mr. Chairman, that you and most of the members of the Congress have an understanding of the grinding poverty which has been the lot of Indian people for the last one hundred years. And I do not think that there is a good grasp among the members of Congress of the opportunity that gaming presents to tribes to begin to escape from such poverty and despair.

We also realize that some moralists will raise the matter of problem gamblers and attempt to attribute all of those problems to legalized gambling. **We believe that one person with a gambling problem is too many.** Consequently, Tribes directly address that issue. For example, the Minnesota Indian Gaming Association recently won an award for its efforts to deal with problem gambling. The Mashentucket Pequot Tribe provided 100% funding to the Connecticut program dealing with problem gamblers.

So I will not comment on the morality question except to say this. In the 1988 decision in the Cabazon case, the Supreme Court of the United States made clear that Indian tribes may not engage in gaming activities within their own territory and jurisdiction unless the laws of the State in which they are located has made such gaming legal for its citizens. If a majority of the citizens of any state wish to shut down Indian gaming on moral grounds, they have the power at hand to do so. They can force their own State government to amend the law to criminally prohibit all gaming for all citizens of the state. A total of 48 of the 50 states have gaming in some form. Only Utah and Hawaii do not have gaming. Utah has Indian Tribes, but those Tribes cannot game because there is no legal authority under state law, and consequently, under IGRA. But, it is hypocritical and economic racism for any of the other states to oppose Indian gaming.

One of the greatest members of the House of Representatives and one of the greatest advocates for Indians to have served in the House was former Congressman Morris K. Udall. On July 6, 1988, Mo Udall made a statement on the floor of the House in defense of Indian gaming. I would like to quote from that statement. He said--

> **"While I am personally opposed to gaming and, in particular, government gaming, I'm afraid the time for moral outrage is past. Gambling as a source of government revenue and charitable funding is too well established to raise moral arguments against the Indians."**

Mr. Chairman, Indian gaming is fulfilling the promised envisioned by Congress when it enacted IGRA in 1988. We invite members of your Committee to help us protect and preserve what has become known as "the new Buffalo", and not let it be virtually destroyed the way the old Buffalo was. We invite honest and fair discussion and study which helps to improve the industry. This is viewed as means to help protect and preserve the integrity of gaming.

SPECIFIC CONCERNS IN REGARD TO H.R. 497.

1) Section 3, Membership. The bill provides for a Commission composed of nine members, three appointed by the Speaker of the House, three appointed by the majority leader of the Senate and three appointed by the President. One Commissioner must be a Governor. Since Indian gaming is one area of study, it would be appropriate to require at least one Commissioner be a member of a Federally Recognized Indian Tribe with expertise and experience in Indian gaming.

2) Section 4. Duties of the Commission. There is no specific mention of Commission examination of state lotteries. We believe this is an unconscionable omission. If Tribal gaming, which is governmental gaming, is to be examined in the study purporting to examine all gaming, the study should not overlook state lotteries, which is also governmental gaming. State lotteries comprise 37% of the entire gaming market, substantially more than Indian gaming.

3) Section 4. Duties of the Commission. The bill provides that matters studied include the economic impact of gambling on the United States, States, political subdivisions of States, and Native American Tribes. (By the way, the preferred statutory language is "Indian Tribes.") This

provision should be amended to include positive uses of gaming revenue. Indian gaming revenue expenditures are limited, by statute, to governmental and charitable purposes. The economic and societal effect has been primarily positive for Indian Tribes. These effects should not be overlooked by the Commission, unless it is the intent of the legislation to prejudge that there are only negative effects emanating from gaming.

4) Section 4. Duties of the Commission. The bill provides that matters studied include a review of the costs and effectiveness of state and Federal gambling regulatory policy, including whether Indian gambling should be regulated by states instead of the federal government.

The authors of the bill are urged to review the legal history of Indian Tribes in the U.S. and the record of the Indian Gaming Regulatory Act. Tribes exercise inherent sovereignty which predated the existence of the U.S.. The authority exercised by the Federal government is based on the "government-to-government" relationship, which has evolved from the U.S. Constitution, treaties, statutes and U.S. Supreme Court decisions. This Federal-Indian relationship is acknowledged and validated by the U.S. Supreme Court in the Cabazon decision, which supported Tribal authority to operate gaming free from state control and invited the Federal government to regulate Indian gaming. State regulation is simply inappropriate. Since the 1969 Indian Civil Rights Act, no state may exercise jurisdiction over any Tribe without consent of the Tribe. This is an issue that simply is best dealt with by the appropriate Congressional committee of original jurisdiction.

State gaming and Indian gaming compete for the same dollar. Placing Indian gaming under jurisdiction of the states would be an invitation to destroy the Tribal opportunity to raise governmental revenues which displace the reliance on Federal funding. A large record has been developed on exactly this issue in the Indian Gaming Regulatory Act and proposed amendments. Perhaps, instead the study could focus on the efficacy of Tribe's regulation of Indian gaming.

The entire issue of regulation is a very comprehensive and complex issue. NIGA has been working with the Senate Indian Affairs Committee and House Subcommittee on Native American Affairs for three years on this issue. NIGA supports the development of Federal minimum regulatory standards for Indian gaming to preserve and protect the integrity of the games. There will not be sufficient time for the H.R. 497 Commission to accomplish anything but a cursory examination of this issue, given the other large duties of the Commission. A misdirected Commission, however, could potentially do a great deal of harm to three years of negotiation and cooperative efforts within the Senate Indian Affairs Committee and House Subcommittee on Native American Affairs on regulatory legislation.

NIGA is strongly opposed to his provision and requests that it be removed.

5) Section 4. Duties of the Commission. Report. The bill provides the final Commission Report provide recommendations for legislation and administrative actions. NIGA believes that such recommendations for Indian issues are best left to the Congressional Committees of original jurisdiction, i.e. the House Resource Committee and the Senate Indian Affairs Committee, which

have the expertise and experience to structure Commission findings within the framework of often complex, existing law.

In conclusion, the National Indian Gaming Association again thanks the House Judiciary Committee for the opportunity to testify on this important legislation. NIGA is available for further information, questions and concerns regarding this testimony and any issues dealing with Indian gaming.

Mr. HYDE. I thank you, Mr. Hill, and your total statement will go in the record.

Our last witness is a very special one, Jeremy Margolis, a well-known lawyer in the State of Illinois and in Chicago, and a good friend.

So, Mr. Margolis, you are recognized for your statement.

STATEMENT OF JEREMY D. MARGOLIS, FORMER ASSISTANT U.S. ATTORNEY AND DIRECTOR, ILLINOIS STATE POLICE

Mr. MARGOLIS. Mr. Chairman, thank you so much. I wish to thank you and the members of the committee for the invitation. It is an honor, a privilege, to be here, and I am happy to report to you that things are fine at home.

Mr. Chairman, as you know, I come to this hearing with the perspective of a person who spent over 11 years in Federal law enforcement, serving the Department of Justice as an assistant U.S. attorney in Chicago, investigating and prosecuting the kind of cases we have been speaking about today, and 7 years in State law enforcement, first as the Illinois inspector general and then as the director of Illinois State Police. As you know, Mr. Chairman, my tenure and service with the men and women of the State police coincided with the 1989 enactment of the Riverboat Gaming Act in Illinois and the investigation, licensure of the owners, operators, and employees, and the inception of riverboat gaming in what has now become the leading riverboat gaming State in the Nation.

I would like to speak to you briefly about what has been called the crime issue. First, the question of street crime. Is there an inexorable relationship between the presence of casino gaming and street crime? The answer, as demonstrated by the numbers and the facts, not rhetoric and wishful thinking, is no.

Perhaps the most eloquent example that I can provide is the chart behind me, and of course it is reproduced in the materials that I provided for the written record. You can see in this chart two lines. The bar graph, which rises to the right, is showing the increase in gaming revenues in Las Vegas, the gaming capital of the world, for a 10-year period of time from 1980–1990—actually 1979–1990. And you can see that gaming revenue increased in that time period from $1.5 to $5 billion. A lot more gaming, a lot more people.

The line which begins at the upper left and then comes down to the bottom in the lower right demonstrates the crime rate in Las Vegas, per capita, according to the FBI's uniform crime reports for the same time period. As gaming revenue is going from $1.5 billion to $5 billion, crime is decreasing at an incredible pace, and the reason is simply this. The 13 demographic factors which the FBI lists in its uniform crime reports are what cause more or less crime. They are sociological factors, matters of economy, employment, unemployment, welfare, quality of government, quality of police, public interest, climate, jurisdiction. Gaming is not one of them. Gaming or gambling or casinos, those words are never mentioned in the FBI uniform crime reports.

The reason why Las Vegas, which went from a very violent, dangerous city, to one of the safest cities in America over a 10-year period of time, the reason for that change is simply a new sheriff was elected and the populace said "we don't want it anymore."

With a dramatic increase in gaming, you have a dramatic decrease in crime, because the crime has really nothing whatsoever to do with the activity of the tourists who arrive at that venue.

Moments ago, the Congressman who represents Atlantic City spoke more eloquently than I ever could about the misuse of crime statistics in Atlantic City. You take a city which was poverty stricken and had 37,000 people, and on top of that town you drop 125,000 people per day. Are you going to have more crime? Of course. You would have more crime if they came to a mall or a whale show or a supermarket.

If you adjust the figures for the average daily population, the city of Atlantic City actually had a far, far lower increase in crime in the same time period the casinos came than the rest of the State of New Jersey that had no casinos at all.

And the examples of Illinois which are documented in my written testimony indicate that in every jurisdiction crime either stayed the same or actually decreased, and you can talk to the police chiefs in the riverboat towns in Illinois, and they will tell you, they think the casinos are reducing crime in their communities.

Second, is the question of Organized Crime. I know Mr. Jahoda. I prosecuted and incarcerated his boss, Rocky Infelice, that he mentioned, and I think, as you know, Mr. Chairman, I am the one who flipped Ken Ito the night he got shot. And for the record, it was three bullets, not two, and they didn't bounce off, they were just at a soft angle. And Jasper Campizi and Johnny Gattuso, who themselves were killed—

Mr. HYDE. They were found in a trunk later, weren't they?

Mr. MARGOLIS. Mr. Chairman, you remember well, you are our Congressmen. They were. And I warned your good friend, the Judge, that he better not let them out on bond, because if he did, he signed their death warrant.

And what Ken Ito tells us and what we learn from Jahoda and Infelice and all the others just like them, is that—first of all, Mr. Jahoda spoke beautifully and accurately when he said that the industry and the regulators have done a brilliant, marvelous, remarkable, wonderful job. There is no organized crime in Las Vegas casinos today, its simply not there. It never was present in Atlantic City. It is not present in Illinois. And you could rest assured, Mr. Chairman, that if there was a scintilla of evidence to the contrary, your fax machine would be burning up, the Reverend Grey would be beating down your door, and you would know about it. It simply isn't the case.

Mr. Chairman, thank you very much.

[The prepared statement of Mr. Margolis follows:]

PREPARED STATEMENT OF JEREMY D. MARGOLIS, FORMER ASSISTANT U.S. ATTORNEY AND DIRECTOR, ILLINOIS STATE POLICE

Mr. Chairman, Members of the House Judiciary Committee, I am honored to appear before you today to testify on the issue of whether regulated casino gaming in America is accompanied by organized crime infiltration or an increase in street crime that is any different from that which is expected from the presence of a like number of people engaged in any other recreational activity.

Although for almost five years I have been a partner in the Chicago law firm of Altheimer & Gray, the perspective I bring to this committee is that of a person who has served eleven years as an Assistant United States Attorney and seven years as the Illinois Inspector General and Director of the Illinois State Police. I have investigated and prosecuted organized crime cases including gambling, official corruption, and loan sharking. My service with the Illinois State Police spanned the years that riverboat casinos were legalized, and their owners, operators and employees were investigated by our officers prior to licensure. A team of dedicated ISP officers now oversee 13 riverboat casinos in Illinois and a special agent is present on every cruise. From this perspective and with your permission, I would like to speak briefly about "the crime issue" and I will attempt to separate fact from fiction.

Street Crime

People often ask whether the presence of gaming in their community would cause an increase in street crime. The facts are these: Las Vegas, Nevada, the city that is synonymous with casinos, is among the safest cities in America. Illinois, the country's leading riverboat casino state has experienced no increase in crime in some riverboat towns and measurable reductions in crime in others.

Crime statistics in the United States are compiled by the FBI and reported annually for the preceding calendar year. The annual publication is titled Crime in the United States and consists of compilations of Uniform Crime Reports (UCR's) ubmitted by thousands of cities, towns, counties, and states in a format designed for this purpose by the FBI. Crimes reported include violent crimes (murder, rape, robbery, and aggravated assault) and property crimes (burglary, larceny, motor vehicle theft, and arson). The total number of crimes per jurisdiction (the crime index) is reported as is the crime rate per 100,000 inhabitants. Although the FBI's reports are largely no more than numerical tabulations and do not include any analysis of event, patterns, or changes in individual jurisdictions, the FBI has identified thirteen factors which it believes affect the volume and type of crimes reported. Those crime factors are:

- Population density and degree of urbanization with size of locality and its surrounding area.

- Stability of population with respect to residents' mobility, commuting patterns, and transient factors.

- Modes of transportation and highway system.

- Economic conditions, including median income, poverty level, and job availability.

- Cultural factors and educational, recreational, and religious characteristics.

- Family conditions with respect to divorce and family cohesiveness.

- Climate

-Effective strength of law enforcement.

- Administrative and investigative emphases of law enforcement.

- Policies of other components of the criminal justice system. (i.e., prosecutorial, judicial, correctional, and probational).

- Citizens' attitudes towards crime.

- Crime reporting practices of the citizenry.

Casino gaming is not listed as a crime factor, and, in fact, the nationwide proliferation of riverboat and casino gaming goes without mention in any of their reports. The fact that a community's crime patterns are the result of the complex interplay of the social and demographic crime factors identified by the FBI rather than by whether or not certain forms of legalized gaming are present, is best demonstrated by the example of Las Vegas, Nevada.

Las Vegas is the casino capital of the world. It is a city of approximately three quarters of a million people who live surrounded by cities and towns with legalized gaming. Casino drove its transformation form an obscure frontier town into a thriving tourist destination point. Casino gaming dominates the city's economy and culture although recent years have witnessed the emergence of family-style theme parks and other attractions in an effort to compete on a broader front for convention and tourist business. The city has almost 100,000 hotel rooms and more are currently under construction. Casinos are located throughout the city and rows of slot machines greet new arrivals at the airport. Despite this focus on casinos and gaming, Las Vegas is among the safest cities in America.

Las Vegas' crime rate is significantly lower than many other tourist and convention oriented cities such as Miami, New Orleans, Los Angeles, Atlanta, San Diego and San Francisco. It has a lower crime rate than college towns like Ann Arbor, Michigan and heartland towns like Lincoln, Nebraska and Lawrence, Kansas.

Significantly, it has a far, far lower crime rate than Orlando, Florida, the home of Mickey Mouse. As the attached statistical abstracts demonstrate (Exhibits 1, 2, and 3), Las Vegas ranked 82nd in 1990 and 80th in 1992 in crime rates per 100,000 inhabitants. These extremely low crime rates are also accomplished with one of the lowest ratios of police officers per 1000 inhabitants of any major city. The example provided by Las Vegas is the best evidence that the FBI was correct in not including legalized gaming in its list of crime factors.

Those who cite crime as a reasons to oppose legalized gaming tend to ignore the Las Vegas example and instead tend to focus on a misleading interpretation of crime statistics in America's other major gaming venue, Atlantic City. Atlantic City was a dying seaside resort town whose population numbered about 37,000 when casino gambling was introduced on the Boardwalk in 1978. Its population included a large number of unemployed and a large number of unemployables. The town was marked by poverty, welfare, crime and social misfortune. Between then and now, twelve casino/hotels (containing almost 10,000 guest rooms) were built, and a flood of visitors drawn form the most heavily populated region in the country enveloped the town. Atlantic City's visitor population quickly swelled to approximately 33 million per year. That the crime rate increased in the first three years that Atlantic City was inundated with tourists was hardly suprising, given the demographics of the city and the tens of millions of people that were present to commit or be victimized by crime regardless of the initial purpose of their visits. Those who raise the specter of an Atlantic City teeming with crime bred by casinos serving as a blueprint for a crime wave in any community that legalizes gaming obviously misunderstand (or intentionally misconstrue) the statistical realities in Atlantic City.

A number of points must be made. First, comparing the demographics of a problem-ridden pre-casino Atlantic City to the stable, family-oriented, economically sound and socially responsible communities now considering casinos is like comparing night and day. Sadly, Atlantic City's problems of unemployment, drug use, extreme violence, and substandard public housing long predate the advent of casinos on the Boardwalk.

Second, a clear understanding of how the FBI computes crime rates can prevent one from being misled by what on the surface appear to be alarming statistics, but in reality are quite reasonable numbers, which some people are anxious to take out of context. As mentioned above, the crime index is a tabulation of the total number of certain crimes reported by given jurisdictions. The crime rate is the number of crime per each 100,000 permanent residents (or a proportional number for smaller communities). Although crimes committed by or against visitors are reported in the total number of crimes, the FBI does not adjust its base population number when computing the number of crime per 100,000 residents. A normal number of business or personal visits to cities, towns, or even rural areas are taken as a given and no adjustments are made in the figures.

Austin, Texas and Kansas City, Kansas, for example, have similar permanent populations, and the crime rates of each are not adjusted for whatever variables in temporary visitor populations might exist. The figures as reported by the FBI show substantially higher crime rates for Kansas City, but slightly higher property crime rates for Austin. Neither city has an extraordinary number of visitors and researchers must examine the crime factors present in each to draw conclusions as to the root cause of the disparities. On the other hand, the city of Orlando, Florida, has experienced dramatic increases in the numbers of crimes reported since Disney World began to attract tens of millions of visitors to the area. Orlando's crime rates, however, are still measured against a relatively small permanent population of less than 200,000 and one can reasonably conclude that the increases were the result of the huge influx of population rather than an overnight change in the crime factors affecting the permanent residents. In a jurisdiction where there is an extremely large annual visitor presence, one can more accurately measure the actual percent chance that any individual will be victimized by crime by tabulating the total number of crime, and by measuring them against the number of people actually present rather than against the number who claim a local address. This is particularly true in Atlantic City, where the permanent population is tripled by the daily hordes of visitors.

The most exhaustive research on post casino crime in Atlantic city was conducted by the noted criminologist and sociologist Jay Albanese (The Effect of Casino Gambling on Crime, Federal Probation, 39-44, 1985). Albanese examined the increase in Atlantic City's crime rates between 1978-1982, but measured them against the increases that occurred during the same time period throughout the entire state of New Jersey. He also examined the crime rates in light of the dramatic changes in Atlantic City's average daily population. His correlation analyses observed that the increase in crime since the advent of casinos was more than offset by the increase in crime throughout the state generally and by the number of people present. He found that a higher percentage of crimes occurring were being reported because of the presence of casino related security personnel. He found that the individual risk of victimization in Atlantic City was actually less than it had been before the advent of casinos, and that crime rate for people actually present was less than it had been before visitors tripled the city's average daily population.

The Myth of the Casino Factor

In Illinois and in other jurisdictions that have implemented riverboat casino gaming, detractors have relied heavily on the theory and "research" of an admittedly anti-casino economics professor in New Orleans. The professor's uncommissioned work which included findings on a broad array of social, political, psychological and economic subjects included as a major tenet the discovery of a "casino factor" that could mathematically predict the amount of crime that would be caused by the operation of a single casino in New Orleans. The professor claimed that his formula could be applied to predict the amount of crime that would result from casino gaming in any city in America. The professor's report argues that the mere presence of gambling in a jurisdiction causes an annual increase of 132 crimes per thousand residents and that each million dollars of increased visitor spending results in the annual commission of an additional .005805 crimes per 1,000 residents. It states that increased spending on police and corrections has a statistically insignificant impact on crime rates. The professor's "crime equation" is based upon his calculation of the impact of a variety of factors including race, income, employment, and a self-designated "gambling dummy variable". He purports to claim that this formula, when coupled with projections of visitor spending, can accurately predict the annual increase in criminal activity that will result from various allocations of casino size in square feet (because of the relative accuracy of casino revenue projections).

This theory became the evidence that casino opponents had been seeking and variations and amplifications of it soon permeated their rhetoric and writings across the country. The theory is a myth--it is flatly contradicted by all the objective evidence available!

Testing the casino factor theory against the actual experience of America's two gaming venues is illuminating . Most obvious is the gross contradiction between this theoretical model and the 1980-1990 empirical data which demonstrates an inverse relationship between casino revenues and crime rates in Las Vegas. A side by side comparison of Las Vegas' increasing gaming revenue and decreasing crime rates (relative to cities without gaming) directly contradicts the casino factor theory. As Chart 1 demonstrates, casino revenues in Las Vegas have risen every year since 1979. During the same years Las Vegas' crime rate relative to other cities has dropped consistently--from first in 1979 to eighty-second in 1990. This decrease in crime despite the growing number of visitors, casinos and gaming revenue, is exactly the opposite of what the professor's untested theory predicts.

CHART 1

The fluctuations in Atlantic City's crime rates make their inconsistency with the casino factor theory less obvious, but after analysis one reaches the same conclusion. As the professor's own projections for New Orleans indicate, the casino factor theory predicts crime increases directly proportional to casino square footage. The theory holds that increasing casino size proportionally increases crime. His study provides these projections:

Casino Size (sq. ft.)	25,000	100,000	300,000
New Crimes	956	3,802	10,817

The Atlantic City experience, however, is completely inconsistent with this conclusion. The number of casinos there increased 50% (from six to nine) between 1980 and 1981, yet only a minimal increase in crime was experienced. Between 1982 and 1987, casinos grew by 33% (from nine to twelve) yet crime remained fairly constant. Crime rates dropped measurably in 1984 and 1987, both of which were years in which additional casinos became operational. Between 1982 and 1990 gambling revenue in Atlantic City almost doubled from about $2.5 billion to almost $5 billion while crime remained relatively constant.

The casino factor theory, which was never validate by testing its equation against actual crime and visor spending figures of any specific jurisdiction (and it inconsistent with the experience of both Las Vegas and Atlantic City) is a generic model. It does not take into account the vast disparity in the specific crime factors that are present in different cities. Id does not address the question of what the likely impact on crime rates would be if an impoverished community like Atlantic City had its average daily population tripled by tourists, no matter how they spent their time and money upon arrival. It considers statistically insignificant the impact of police initiatives and performance and totally ignores what is perhaps them most important variable of all--the basic nature and decency of a people in a community. The theory, therefore, has as much to do with any community that allows or is considering gaming as it does with Las Vegas or Atlantic City; nothing.

The Illinois Riverboat Experience

The Illinois experience has surpassed all expectations and crime has, simply put, not been an issue at all. At the present time, nine Illinois towns have thirteen operational riverboat casinos. There is no better or more accurate way to say it; crime has not been a problem.

Joliet, Illinois is the most active of all Illinois riverboat communities. Its four boats, two on the outskirts of town and two in the heart of downtown, (shouting distance from City Hall) have almost 400,000 admissions and generate over $30 billion in gaming revenue per month. Shortly after the second boat became operational, Joliet Police Chief Joe Beazley and Will County Sheriff Tom Fitzgerald prepared the press release attached as Exhibit 3. On September 2, 1993 they jointly announced a 10.8% reduction in index crimes for the Joliet/Will County area for the first seven months of 1993. This decrease followed a 5.4% decrease in 1992. Joliet's number of index crimes since 1980 and the significant recent decreases that coincide with the advent of riverboat casinos is depicted in Chart 2. Perhaps the most significant is the fact that crime in the six block area around the downtown Joliet boat decreased approximately 12%.

Most other Illinois riverboat towns (Aurora, East Peoria, East St. Louis, Galena, Metropolis, and Rock Island) have also reported decreases in crime. Only two Illinois riverboat towns recorded crime increases. Peoria had a tiny increase, one that was much smaller than the increase that occurred in the year that preceded the opening of the riverboat. (East Peoria had a decrease in crime). Peoria officials attribute no particular problem to the boat. The sheriff does not believe the boat has caused crime. Alton, Illinois showed a modest increase in crime in 1992. Its police chief believes that the boat has caused a decrease in crime in the downtown area because of the number of people present and because of the better lighting which has been installed. The actual crime figures for there communities as reported to the Illinois State Police and FBI are set forth in Exhibit 4.

Anecdotally, chiefs, sheriffs, and line officers in riverboat towns are uniform in their belief that the boats have no effect on crime or because of improved lighting and the presence of crowds returning to once sparsely populated downtown areas, a positive impact. The most often heard remark is that riverboats are less of a police concern than local department stores.[1]

Organized Crime

Probably no issue arouses more passion and poses more of a community concern than does the question of the potential involvement of organized crime in legalized gaming. Based upon a combination of history and Hollywood imagery, some people allege that organized crime will be able to infiltrate and exert control. Recent experience in Las Vegas and the total experience of Atlantic City and Illinois riverboats refute this belief.

Bugsy Siegal died in 1947. The Las Vegas that is still glorified in the movies is history. When Howard Hughes sold Trans World Airlines in 1966 for almost $600 million, he earned the largest sum of money ever to come into a single person's possession at one time. With it he bought six properties generating 25% of the city's gaming revenue. Hughes' entry into Las Vegas gave the industry a newfound credibility and paved the way for investment by large and respectable publicly-traded corporations. From a regulatory standpoint, this change had significant advantages. First, the broad array of Securities and Exchange Commission and Internal Revenue Service disclosures served as a valuable backup to state regulations. Second, publicly-traded corporations are extremely sensitive about negative publicity and anything that might trouble stockholders, stock analysts, and investors. Third, such corporations tend to be extremely large and stand to lose a great deal should any misconduct be discovered which would jeopardize a license. Fourth, such corporations tend to have extensive and effective internal controls and the possibility of diverted revenue was further minimized.

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[1] Names and telephone numbers of city, county, and state law enforcement personnel are available upon request.

For many years, organized crime has not been a factor in Las Vegas. Aggressive and thorough regulators, an ever vigilant FBI (whose retired agents continue that work throughout the gaming industry), and highly efficient and tightly-controlled publicly-owned companies have seen to that. In Atlantic City, organized crime never touched the casino industry. Starting with an effective system of licensing and regulation, New Jersey gaming authorities and the publicly-owned corporations doing business in Atlantic City have been completely effective in this regard. The Illinois riverboat experience has been equally successful.

While every jurisdiction that has recently considered or introduced gaming has had its share of doom sayers conjuring up images of The Godfather, it just isn't so. When retired (and much respected) U.S. District Court Judge Nicholas Bua chaired the City of Chicago Gaming Commission, he reported consensus among the United States Attorney, the Director of the Illinois State Police and the Assistant Special Agent in Charge of the Chicago FBI Division (the man who for over 10 years had had direct responsibility and supervision of all FBI organized crime investigations in Chicago), that if a land-based casino complex operated in Chicago, organized crime would not be a problem. The FBI spokesman in particular stated that "organized crime would probably not become a significant law enforcement issue." In the fall of 1993, Supervisory Special Agent Jim Moody, the man then in charge of the FBI's organized crime program at Bureau headquarters, testified before another House committee:

> As legalized gaming spreads throughout the United States, we are seeing that those states with strong regulation and enforcement are not experiencing an influx of organized crime activity...
>
> The gaming industry is a relatively closed industry. The individuals that manage and operate casinos will quickly recognize embezzlement or theft in their operations. Dishonest employees will be quickly identified and dismissed in casinos that are subjected to strong regulation and enforcement. Honest management will identify problem employees long before law enforcement. The vast majority of gaming operations are run as legitimate legal businesses. The gaming industry is very image conscious, profit driven, and has a vested interest in ensuring that the criminal element is kept out of the industry. With strict regulation, strong internal control, strong enforcement and constant vigilance, organized crime's infiltration can be impeded.

The FBI's observations are, of course, entirely consistent with the Illinois riverboat experience. There has not been a hint, not a wisp of an organized crime problem. Those who use glib rhetoric to raise the specter of organized crime like some bogeyman always fail to respond to this simple factual challenge:

> Name an Atlantic City casino with an organized crime problem and specify the nature of the problem.

Name the Las Vegas casino that currently has an organized crime problem and specify the nature of the problem.

Name the Illinois riverboat with an organized crime problem and specify the nature of the problem.

These questions always go unanswered.

Conclusion

People have every right to debate the pros and cons of every manner of leisure activity; fishing, flying, off-roading, gaming and a thousand others. The use of misleading statistics and historical distortions to inject the bogeyman of crime into the discussion adds a great deal of heat but very little light.

EXHIBIT 1

STATISTICAL ABSTRACT

1990 Uniform Crime Report

1990 Total Part 1 Crimes (per 100,000 population)

1. Miami, FL	12,412
2. Odessa, TX	11,974
3. San Antonio, TX	10,479
4. Dallas, TX	10,296
5. El Paso, TX	10,286
6. Atlantic City, NJ	10,136
7. Wichita Falls, TX	9,478
8. Tucson, AZ	9,436
9. Ft. Worth, TX	9,381
10. Albuquerque, NM	9,346
11. New Orleans, LA	9,303
12. Jacksonville, FL	9,166
13. Austin, TX	8,919
14. Fayetteville, NC	8,909
15. New York, NY	8,899
16. Ft.Lauderdale, FL	8,847
17. Little Rock, AK	8,710
18. Wilmington, NC	8,703
19. Corpus Christi, TX	8,687
Phoenix, AZ	8,686
Macon, GA	8,653
22. Yakima, WA	8,533
23. Houston, TX	8,494
24. Laredo, TX	8,472
25. Baton Rouge, LA	8,399
26. Orlando, FL	8,341
27. Stockton, CA	8,323
28. Shreveport, LA	8,264
29. Fresno, CA	8,245
30. Charlotte, NC	7,934
31. Topeka, KS	7,890
32. Savannah, GA	7,873
33. Oklahoma City, OK	7,853
34. Flint, MI	7,806
35. Bradenton, FL	7,769
36. Waco, TX	7,715
37. Amarillo, TX	7,712
38. Jackson, TN	7,690
39. Galveston, TX	7,674
40. Ocala, FL	7,640
41. Jersey City, NJ	7,634
42. Memphis, TN	7,621
43. Beaumont, TX	7,536
44. Macon, GA	7,465
45. Los Angeles, CA	7,460
46. Sarasota, FL	7,458
47. Tyler, TX	7,447
48. Kansas City, MO	7,435
49. Benton Harbor, MI	7,426
50. Tuscaloosa, AL	7,419
51. Melbourne, FL	7,412
52. Lawrence, KS	7,348
53. Pine Bluff, AK	7,291
54. Toledo, OH	7,171
55. Burlington, VT	7,170
56. Daytona Beach, FL	7,156
57. San Diego, CA	7,149
58. Columbia, SC	7,133
59. Seattle, WA	7,097
60. Pueblo, CO	7,088
61. New Haven, CT	7,056
62. Tacoma, WA	7,023
63. Charleston, NC	6,976
64. Lincoln, NB	6,956
65. Detroit, MI	6,948
66. Newark, NJ	6,937
67. Reno, NV	6,887A
68. Oakland, CA	6,887B
69. Salt Lake City, UT	6,879
70. Jackson, MS	6,877
71. Columbus, OH	6,833
72. San Francisco, CA	6,829
73. Sherman, TX	6,805
74. Ann Arbor, MI	6,773
75. Wichita, KS	6,761
76. Muskegon, MI	6,776
77. Baltimore, MD	6,764
78. Huntsville, AL	6,760
79. Tulsa, OK	6,702
80. Greenville, SC	6,677
81. Monroe, LA	6,674
82. *Las Vegas, NV*	6,633

EXHIBIT 2

STATISTICAL ABSTRACT

1991 Uniform Crime Report

1991 Total Part I Crimes (per 100,000 population)

1. Miami, FL	12,786.1
2. Odessa, TX	12,054.7
3. Tallahassee, FL	11,353.3
4. San Antonio, TX	10,453.0
5. Atlantic City, NJ	10,242.3
6. Ft. Worth, TX	10,143.4
7. Dallas, TX	10,039.3
8. Wilmington, NC	9,771.9
9. Lakeland, FL	9,715.8
10. Gainesville, FL	9,458.8
11. Little Rock, AR	9,352.2
12. Jacksonville, FL	9,197.5
13. Fresno, CA	9,099.6
14. Albany, GA	9,083.7
15. Fayetteville, NC	9,047.4
16. Albuquerque, NM	8,984.8
17. Laredo, TX	8,966.7
18. El Paso, TX	8,937.3
19. New Orleans, LA	8,839.5
20. Baton Rouge, LA	8,778.8
21. Austin, TX	8,734.5
22. Jackson, TX	8,704.1
23. Corpus Christi, TX	8,685.9
24. Wichita Falls, TX	8,582.5
25. Topeka, KS	8,550.0
26. Waco, TX	8,535.3
27. Ft. Lauderdale, FL	8,514.3
28. New York, NY	8,484.4
29. Jackson, MS	8,417.0
30. Stockton, CA	8,393.0
31. Galveston, TX	8,370.8
32. Tucson, AZ	8,364.3
33. Atlanta, GA	8,317.0
34. Tampa, FL	8,267.9
35. Houston, TX	8,188.7
36. Victoria, TX	8,180.7
37. Phoenix, AZ	8,179.4
38. Tuscaloosa, AL	8,125.6
39. Oklahoma City, OK	8,048.0
40. Charlotte, NC	8,035.9
41. Shreveport, LA	7,968.8
42. Savannah, GA	7,951.2
43. Bradenton, FL	7,907.8
44. Yakima, WA	7,871.6
45. Memphis, TN	7,798.0
46. Flint, MI	7,733.9
47. Chicago, IL	7,727.5*
48. Los Angeles, CA	7,622.6
49. Lincoln, NE	7,612.5
50. Muskegon, MI	7,602.6
51. Tyler, TX	7,577.0
52. Benton Harbor, MI	7,523.1
53. Wichita, KS	7,489.7
54. Kansas City, MO	7,478.5
55. Oakland, CA	7,458.4
56. Charleston, SC	7,454.4
57. Great Falls, MT	7,450.5
58. Beaumont, TX	7,386.3
59. Daytona Beach, FL	7,380.0
60. Columbia, SC	7,322.1
61. Jersey City, NJ	7,309.1
62. Lawrence, KS	7,279.3
63. Pine Bluff, AR	7,276.8
64. Baltimore, MD	7,266.8
65. Monroe, LA	7,245.9
66. Florence, SC	7,213.2
67. Sacramento, CA	7,210.0
68. Rockford, IL	7,208.4*
69. Longview, TX	7,201.2
70. Sarasota, FL	7,174.0
71. Battle Creek, MI	7,170.2
72. Seattle, WA	7,153.8
73. Montgomery, AL	7,134.9
74. Amarillo, TX	7,109.5
75. Texarkana, TX	7,108.6
76. Brownsville, TX	7,092.4
77. Detroit, MI	7,056.4
78. Toledo, OH	7,039.3
79. Melbourne, FL	7,036.1
80. Las Vegas, NV	***7,023.3***

EXHIBIT 3

STATISTICAL ABSTRACT

1992 Uniform Crime Report

1992 Total Part I Crimes (per 100,000 population)

1. Miami, FL	12,336.4	29. Tyler, TX	8,036.1	57. Brownsville, TX	7,346.2
2. Tallahassee, FL	10,973.4	30. Tampa, FL	7,940.1	58. Savannah, GA	7,204.6
3. Gainesville, FL	10,787.6	31. Atlanta, GA	7,931.9	59. Waco, TX	7,151.9
4. Baton Rouge, LA	10,374.4	32. Tuscaloosa, AL	7,909.4	60. Memphis, TN	7,148.7
5. San Antonio, TX	9,488.2	33. Yakima, WA	7,899.3	61. Wichita Falls, TX	7,098.3
6. Jacksonville, FL	9,160.1	34. Odessa, TX	7,888.0	62. Anchorage, AK	7,088.1
7. Albany, GA	9,150.8	35. Oklahoma City, OK	7,836.9	63. San Francisco, CA	7,045.9
8. Atlantic City, NJ	9,114.3	36. McAllen, TX	7,802.9	64. Kansas City, MO	7,028.6
9. West Palm Beach, FL	9,078.3	37. Galveston, TX	7,769.6	65. Wichita, KS	7,014.1
10. Wilmington, NC	8,862.1	38. Charlotte, NC	7,733.8	66. Sumter, SC	7,007.5
11. Lakeland, FL	8,837.3	39. Orlando, FL	7,719.1	67. Yolo, CA	6,984.0
12. Corpus Christi, TX	8,767.3	40. Shreveport, LA	7,686.5	68. Sacramento, CA	6,962.8
13. Fresno, CA	8,726.9	41. Beaumont, TX	7,664.5	69. Houston, TX	6,947.7
14. Little Rock, AR	8,681.8	42. Panama City, FL	7,614.9	70. Columbia, SC	6,896.1
15. Jackson, TN	8,636.0	43. Victoria, TX	7,606.1	71. Nashville, TN	6,878.3
16. Ft. Lauderdale, FL	8,536.3	44. Lincoln, NE	7,578.7	72. Alexandria, LA	6,846.3
17. New Orleans, LA	8,512.9	45. Albuquerque, NM	7,556.3	73. Melbourne, FL	6,826.7
18. Ft. Worth, TX	8,491.5	46. Amarillo, TX	7,537.1	74. Seattle, WA	6,799.4
19. Dallas, TX	8,461.7	47. Monroe, LA	7,513.9	75. Billings, MT	6,788.1
20. Tucson, AZ	8,438.6	48. Sarasota, FL	7,479.8	76. Florence, SC	6,778.3
21. El Paso, TX	8,423.3	49. Laredo, TX	7,477.2	77. Ocala, FL	6,758.8
22. Myrtle Beach, SC	8,348.7	50. Phoenix, AZ	7,464.6	78. Tacoma, WA	6,755.9
23. Greenville, NC	8,334.5	51. Riverside-San Ber., CA	7,458.2	79. Benton Harbor, MI	6,753.6
24. Topeka, KS	8,329.6	52. Flint, MI	7,416.2	*80. Las Vegas, NV*	6,740.6
25. Fayetteville, NC	8,318.7	53. Los Angeles, CA	7,407.6		
26. Jackson, MS	8,173.1	54. Baltimore, MD	7,382.3		
27. Stockton, CA	8,172.0	55. Oakland, CA	7,363.8		
28. Austin, TX	8,111.1	56. Athens, GA	7,358.9		

In 1979 Las Vegas ranked 1st with 9,982.6 Part I Crimes per 100,000 population.
In 1980 Las Vegas was 3rd with 10,292.3
In 1981 Las Vegas was 4th with 10,297.0
In 1982 Las Vegas was 4th with 9,614.4
In 1983 Las Vegas was 8th with 7,994.1
In 1984 Las Vegas was 15th with 7,571.2
In 1985 Las Vegas was 35th with 7,328.3
In 1986 Las Vegas was 60th with 7,276.0
In 1987 Las Vegas was 60th with 7,271.2
In 1988 two states failed to report, so no ranking was possible.
In 1989 Las Vegas was 82nd with 6,717.1
In 1990 Las Vegas was 82nd with 6,655.3
In 1991 Las Vegas was 80th with 7,023.3

EXHIBIT 4

PRESS RELEASE

Joliet Police Chief Joseph Beazley and Will County Sheriff Tom Fitzgerald announce significant reductions in crime in the Will County/Joliet area. In the City of Joliet, for the first seven months of the year, Part I crimes (which include murder, criminal sexual assault, robbery, battery, assault, burglary, burglary to motor vehicle, theft, motor vehicle theft, and arson) declined by a total of 10.8%, compared to the same period last year. This decline in particularly encouraging in view of the fact that the City enjoyed a reduction of 5.4% during 1992.

In Will County, Part I crimes declined by 11.1% for this period. Will County had a decline in 1992 of 13.3% in Part I crimes.

Both Fitzgerald and Beazley indicated that fear of crime is a very significant problem, but they wish to present these statistics to allay unnecessary fears and to reinforce community crime prevention efforts. Sensational crimes and crimes in general are widely discussed and reported; however, crimes that do not occur cannot really be measured. Citizens and community groups, such as neighborhood watches, must be commended for their efforts along with the police officers who persevere to keep our communities safe. They cautioned against celebrating these declines since there is much yet to be done to reduce crime. However, they attribute any crime reduction to the better working relationship between the police and the community, and to the vigilance and hard work of citizens and law enforcement personnel. They further pointed to the better communications and cooperation between their departments. Credit was also given to multi-jurisdictional efforts such as MANS (Metropolitan Area Narcotics Squad), CPAT (Cooperative Police Assistance Team), and the Tri-County Auto Theft Unit. It is hoped that this working relationship will continue to grow with the further development of community-oriented policing in Will County and the City of Joliet.

9/02/93
A:PRESS

JOLIET POLICE DEPARTMENT

PART I CRIMES	1991 (1/01 - 12/31)	1992 (1/01 - 12/31)	DIFFERENCE	
			#	%
Murder**	23	18	(5)	(21.7)
Criminal Sexual Assault	69	64	(5)	(7.2)
Robbery	281	253	(28)	(10.0)
Battery	346	303	(43)	(12.4)
Assault	211	193	(18)	(8.5)
Burglary	1,363	1,310	(53)	(3.9)
Burglary to Motor Vehicle	1,419	1,208	(211)	(14.9)
Theft	3,091	2,993	(98)	(3.2)
Motor Vehicle Theft	1,170	1,169	(1)	(0.1)
Arson	58	90	32	55.2
TOTAL	8,031	7,601	(430)	(5.4)

(**) - Includes attempts. Actual murders for 1991 were 22, and for 1992 were 15.

JOLIET POLICE DEPARTMENT

PART I CRIMES	1992 (1/01 - 7/31)	1993 (1/01 - 7/31)	DIFFERENCE	
			#	%
Murder**	10	12	2	20.0
Criminal Sexual Assault	38	54	16	42.1
Robbery	139	136	(3)	(2.2)
Battery	191	174	(17)	(8.9)
Assault	121	90	(31)	(25.6)
Burglary	807	663	(144)	(17.8)
Burglary to Motor Vehicle	702	576	(126)	(17.9)
Theft	1,740	1,668	(72)	(4.1)
Motor Vehicle Theft	594	481	(113)	(19.0)
Arson	52	67	15	28.8
TOTAL	4,394	3,921	(473)	(10.8)

(**) - Includes attempts. Actual murders for both 1992 and 1993 through July were 5.

Mr. HYDE. Well, I thank you, Mr. Margolis.

I just want to make sure I understand you. Did you say there is no organized crime in Chicago today?

Mr. MARGOLIS. No, I did not. What I said was—actually, there is a great deal of it, Mr. Chairman, and that is the point. It was here before we had casinos on riverboats, and it is here with casinos, but it has nothing whatsoever to do with those casinos. There is none involved in the casino industry in Las Vegas today, and I challenge anybody to name me a casino that has any impact whatsoever.

The same was always true of Atlantic City, and I challenge anybody to give me the name of a casino in Atlantic City that has an organized crime involvement. And there is not a hint of it in the Illinois riverboats. That is just a fact.

Mr. HYDE. How was Las Vegas able to rid itself of organized crime?

Mr. MARGOLIS. Mr. Chairman, in 1966, when Howard Hughes sold TWA, he came into possession of the largest sum of cash ever received at one point in time by an individual, and with it he bought 25 percent of the strip, and that for the first time brought respectability to Las Vegas, and institutions, publicly traded corporations, then began to invest heavily, following Howard Hughes' example. And now, today, as Frank Fahrenkopf so beautifully testified, institutional investors such as pension funds now are really the vast majority owners of the gaming corporations that now dominate this industry.

Mr. HYDE. Well, you and I can talk and talk, but you are telling me from the days of Howard Hughes there was no—Chicago didn't have people out there?

Mr. MARGOLIS. Oh, of course, Mr. Chairman. You recall exactly that in the late 1970's——

Mr. HYDE. I know their names, and the one fellow got his face beaten off and buried in a farm in Indiana, who was the Las Vegas-Chicago connection.

Mr. MARGOLIS. Right, and they used Dan Webb's stolen State police director's car to do the hit.

What happened, Mr. Chairman, was, you had skimming by the Aldorisio family in Milwaukee, and the Chicago families, up until the late 1970's. The trials took place in the early 1980's. There has never been any documented instance of organized crime skimming in Las Vegas ever since, and the reason is, the regulations have worked. Atlantic City never had it because the regulations always worked.

Mr. HYDE. The prosecutions worked, too, on the skimming.

Mr. MARGOLIS. Absolutely; it is a combination, Mr. Chairman, of course.

Mr. HYDE. All right, very good.

And I saw Mr. Fahrenkopf take justifiable pleasure at the remarks of Mr. Jahoda, who I think complimented the licensed gambling interests in Las Vegas and in New Jersey, and he did, and so it wasn't a total loss at all. I think he was somewhat helpful to licensed gambling.

Mr. FAHRENKOPF. I wrote it down, Mr. Chairman.

Mr. HYDE. I saw you writing furiously with both hands.

Mr. Schumer, do you have questions?

Mr. SCHUMER. Thank you, Mr. Chairman, and I also want to thank all of the witnesses for their testimony.

I guess—I don't know if most of you were here when I spoke, when I asked questions to Mr. Jahoda, but I would like to ask a few people different questions, and I guess I will start with Mr. Fahrenkopf, who I heard mentioned my name before I was there, and he said—you basically mentioned my name in reference to saying, well, the industry should be treated as innocent before proven guilty.

And I would like to sort of say to you that I don't think the bill is a trial or an indictment or anything negative. It is just that we have a dramatic change in America, and that is that gambling is becoming—abilities to gamble legally have become much more prevalent, and we ought to know the effects on that.

I mean let me ask you, somebody mentioned—I believe it was Frank Wolf—that article in the New York Times about Iowa. I found that very troubling.

Mr. FAHRENKOPF. I did too, Mr. Schumer.

Mr. SCHUMER. OK. And so the question really that I would have to you is, what is wrong—I think this study will be down the middle, as I mentioned to you, and it was I who asked the question of Mr. Jahoda, who brought out the fact that the licensed industry has been a clean industry and attempted to be very clean, at least in his opinion. What is wrong with a study that looks at all of this?

Gambling is not simply an activity like going to the store and, you know, buying a cherry pie, because people don't buy so many cherry pies that they run out of all their money. But we have heard of stories about gambling where people do do that, and that is something we should know about and figure out.

What do you think?

Mr. FAHRENKOPF. Well, then I would assume that what we ought to do is remove all Neiman-Marcus stores and all Bloomingdale stores away from where people live, because statistics will tell you that people who use credit cards without having sufficient money in the bank or income to pay those bills when they come due, that we ought to have an investigation of that.

Mr. SCHUMER. Guess what? I have spent years looking into that, and I have been a critic of the credit card industry for sending credit cards to kids, dogs. They send it to everyone under the sun.

Mr. FAHRENKOPF. You are right; you are 100 percent correct. I would answer you this way, Mr. Schumer. I see nothing wrong with studies. What I have a problem with is who does the studies.

Mr. SCHUMER. Right, OK.

Mr. FAHRENKOPF. And I commented during my testimony, particularly with regard to the State of Maryland and the debate that is going on right now in the State of Maryland, which of course has gaming, and the State of Maryland in my—from my point of view, is going about it in the right, responsible way.

The Governor has appointed a commission, headed by a former prominent Member of the Congress of the United States. There is bipartisan representation on that commission. They are traveling around the State of Maryland. They are talking to people pro and con, getting the views of the people in that State on the question of gaming, and are going to report back.

Now, my point with that is that however that report comes out—we don't know what is going to happen—you are not going to be able to take that report, Congressman, take that report and move it out to, say, a State like Nebraska, and have that report be any good in Nebraska, the reason being, unless Nebraska has a significant horse track industry or thoroughbred breeding industry, the economics of that—of a different State, they are different.

So what I am seeing is, I have a hard time seeing how the Congress of the United States or this blue ribbon committee is going to really be able to do a study that is going to be applicable around the country.

Mr. Ford, the majority leader of the Mississippi House, who was going to try to be here but couldn't at the last minute, will testify that in Mississippi, the poorest State in the Union, they had to consider down there the unemployment rate, the education of their people.

So my problem is, I just don't think that the wisdom along the banks of the Potomac will necessarily convert. Certainly the Congress——

Mr. SCHUMER. I would hope that this committee would not just be composed of people inside the beltway but would have national representation. And it is true, it is different in different places, but, sir, if it were a cut and dried issue, then you wouldn't need a commission. If everyone agreed it was totally good, you wouldn't need a commission. If everyone agreed it was totally bad, you wouldn't need a commission. The problem is, this is——

Mr. FAHRENKOPF. Congressman, you know well enough that after that report comes out, regardless of what it says, not everyone's going to think it is good or bad.

Mr. SCHUMER. Right, that is true.

Mr. FAHRENKOPF. What I am saying is, it is a State issue; let each State study it.

Mr. SCHUMER. Let me ask you one more question, if I might.

Mr. Chairman, I see the red light is on. I would be willing to wait for my colleagues if we could come back.

Mr. HYDE. No; the gentleman is recognized for such time as he may consume.

Mr. SCHUMER. I appreciate that.

The second question I have, not just for you, Mr. Fahrenkopf, but I would like to start with you, is the question of advertising.

To me, I am not troubled by legalized gambling, I am troubled by the ads, some of the ads I see, and you cannot, of course, separate the ads, you know, that children see versus adults.

And second, I am troubled, as I mentioned before, by the increased availability of it. Now, you say, well, what about other things that are very available? Well, we do a lot of taxing. We tax alcohol and cigarettes because I think at least most of us in this country believe people have a right to consume them, but they have negative effects, and therefore we tax them. That is one way to make it less available.

What about—tell me about advertising and tell me about the idea of, say, having legalized gambling in New York City, to take my area, as opposed to the Catskills, or in addition to the Catskills.

Mr. FAHRENKOPF. The question of advertising, not only with gaming, but with liquor prices and some other so-called historical sin industries, is in fact a matter that I think is probably on its way to the U.S. Supreme Court right now, arising out of a case, Congressman, in Rhode Island having to do with whether or not first amendment rights of liquor dealers are being somehow derogated by not being able to advertise in the newspapers.

Up until really just about a year ago, even in the State of Nevada, casinos could not advertise. It was only after litigation in the courts. There, you might see an ad saying, "Come to Las Vegas," and it would show the outside of a hotel, but you never saw a slot machine, you never saw a roulette wheel. And that has varied from jurisdiction to jurisdiction, State law outlawing these things.

Most States will not allow casinos to advertise. Some do, some of the newer States that are——

Mr. SCHUMER. Does your organization oppose any restrictions on advertising?

Mr. FAHRENKOPF. To tell you the truth, we don't have a position on it right now. I am going to raise that at the first board meeting, because there is, I think, a question of first amendment rights.

Now, the real exceptions to all of this have been State lotteries. I——

Mr. SCHUMER. Yes, and they, I mentioned in my opening remarks—this was OTB—I find it reprehensible that the State is using taxpayer dollars one way or another to advertise this stuff, and not just advertise the location or say, hey, don't go to your local bookie because we have a legal way to do it, but encouraging people to do it. It burns me up.

Mr. HYDE. Would the gentleman yield temporarily?

Mr. SCHUMER. Please.

Mr. HYDE. I would like Mr. Schiff to get his, and I will come back to you.

Mr. SCHUMER. No problem.

Mr. HYDE. Mr. Schiff, the gentleman from New Mexico, who has been very patient and very steadfast.

Mr. SCHIFF. We Chicagoans have to stick together.

Mr. HYDE. We do indeed, especially with this group here.

Mr. SCHIFF. I grew up in Sid Yates' district, and it is a good thing I moved out of the State or I would have never been elected to Congress. My Congressman is still alive and well, I am pleased to say.

Mr. HYDE. I just want you to know, older men still have their wits about them.

Mr. SCHIFF. Never doubted it for a minute, Mr. Chairman.

Gentlemen, I just have a couple questions.

Mr. Fahrenkopf, you said there have been a number of studies, and I would like to know when the most recent study was, and let me tell you why I ask the question. My perception is that there has been a great explosion of gambling across the country in just the last few years, and so I wonder if you could cite for me the latest data.

Mr. FAHRENKOPF. I will. In fact, I have mentioned, Congressman, in starting on page 6 of—I point out three of the most recent in my formal text, and then I have attached to it a list of the 200 studies, with the dates, who has done it.

That is appended to—I am sorry, you don't have it? It is appended to my formal statement that was filed with the committee. It is, in fact, a document. It is not numbered, but it is at least 12 pages long, listing all the studies.

In the text body of my formal remarks that I filed, I referred to a May 1994 riverboat gaming and crime in Illinois study by the Illinois Criminal Justice Authority; another one out of the State—of the Commonwealth of Massachusetts in 1994, dealing with gaming regulation, total expanded gaming; and then one that I referred to in June 1994, the State of New York Committee on Senate Finance, did one on casino gaming legalization.

Mr. SCHIFF. So you are saying there are recent reports?

Mr. FAHRENKOPF. Oh, yes, very recent. You should have it before you.

Mr. SCHIFF. I have it now, thank you.

I would like to ask you another question, if I may. Your major contention here is that this is a State issue and the States should be free to pick and choose, make their own decisions. However, since the passage of the Indian Gaming Act—I may not have quoted the title accurately, but you know what I am talking about—if nothing else, if there is no other justification, hasn't that put the Federal Government into the gaming business in that tribes and pueblos around the country are now allowed to gamble based upon an initial Federal authorization?

Mr. FAHRENKOPF. Mr. Congressman, that is probably one of the wisest questions that has been asked today, and I would respond in this way. This Congress and no State in the Union is going to resolve the question of Indian gaming.

You know, the Ways and Means markup provides for the first time an attempt to tax—to put an income tax on the Indian tribes. I can assure you that if that passes this House, passes the Senate, and is signed into law by the President of the United States, the tribes are already ready to file litigation which will determine whether or not the extent of their sovereignty over native lands allows taxation, not only by the Federal Government but by State regulation.

There is a case that will be argued in the U.S. Supreme Court in about 2 weeks—I think October 11—which arises out of the States of Alabama and Florida, brought by the Seminole tribe, over the question of whether or not the Governors of those States and those State governments have, in fact, dealt in good faith in negotiating the compacts.

Where I am going is that until the U.S. Supreme Court takes a case and decides here is in fact—the Indians think it has already been done, so they are probably not going to agree with me absolutely on this—saying here is what the sovereignty of native lands means, here is what Indians can do on their land, what Native Americans can do on that tribal land, and here are the limitations that the Federal Government or State governments by way of regulation or taxation can do. I am not sure that anything you do or any studies that were done would really be of assistance.

I know in your home State, there is great debate going on; there is great debate in California over the question of slot machines. You can go State by State where there is concern. The Coeur D'Alene tribe, which is in Coeur D'Alene, ID, wants to have a national lottery with a 1–800 number.

All of those questions are of concern to the Governors and State attorneys general, but I am afraid that a study done by this proposed commission isn't going to solve that problem until the U.S. Supreme Court resolves it for us all.

Mr. SCHIFF. I think, Doctor—I am sorry.

Mr. GREY. Yes, Representative, if I might.

This study is in April 1995, "The Economic Impact of Native American Gaming in Wisconsin," done by Las Vegas. It's good, because it says: The poor get poorer, reveals study of Wisconsin gamers.

My question here is that, again, we can begin to look at this and detect some things without getting into a debate in the Supreme Court. Gambling is an entity happening in community after community, and I do believe that a sifting of these studies and a hearing on them would detect trends that we find alarming, because if the poor are getting poorer, that is not a good outlook for Wisconsin, and if 80 percent of the people are coming from a 50-mile radius to gamble, it means you are taking money from your local citizens, and there is no benefit then of outside dollars.

Mr. SCHIFF. Mr. Chairman, I ask unanimous consent for two more——

Mr. FAHRENKOPF. Then Wisconsin ought to study it and make a determination what is good for the State of Wisconsin. No one sitting along the beltway or the Potomac River ought to be telling the people of Wisconsin what to do with the problem in their own State.

Mr. GREY. In some cases, they become addicted to it. In South Dakota, the Governor has said——

Mr. FAHRENKOPF. We are going to debate Sunday; we can do this Sunday.

Mr. SCHIFF. I wonder if I could ask unanimous consent for 2 minutes?

Mr. HYDE. The gentleman from New Mexico is granted an additional 2 minutes, without objection.

Mr. SCHIFF. I appreciate it, and I will be very brief. One minute for Mr. Margolis.

I understand your testimony in general, but are you for or against H.R. 497?

Mr. MARGOLIS. I am opposed. I believe the States should decide the issue.

Mr. SCHIFF. All right. Thank you.

And finally, Mr. Hill, I want to point out that if we do—if we do pass H.R. 497, I just want to point out that a number of the suggestions made in your testimony, such as given the fact that there is Indian gambling, Indian gaming now, of including a native American representative, of making sure there is a study of State lotteries, because I think the worst gaming is where the State is out advertising people to promote them to gamble. I think you have made some excellent suggestions for the improvement of this bill.

I yield back, Mr. Chairman. I thank you for the extra time.

Mr. HYDE. Well, I thank the gentleman.

Mr. Hill, did you want to say something?

Mr. HILL. I just wanted to respond to the Wisconsin study. I think it is a slanted report. There has been a lot of negative information going on about Indian gaming, and this one is targeted at Wisconsin, but if you read other studies, they would say that Indian gaming is making taxpayers out of tax users, people coming off of welfare, how crime is down because of the Indian casinos, so on and so forth.

So I would beg to differ with the gentleman over here to my right, Mr. Grey, about that information.

Mr. HYDE. Mr. Ashe.

Mr. ASHE. Yes, I just want to bring to the attention of the Congressman two recent studies just completed, the Iowa study which showed a prevalence rate of 1.7 percent in 1989, went to 5.4 percent in 1995, June of 1995. The most recent jurisdiction with a study was Louisiana in July of 1995. It showed a prevalence rate of 7 percent.

Regarding the advertising concept, I agree with both congressmen on that issue.

Mr. SCHIFF. I am sorry, prevalence rate of what?

Mr. ASHE. Prevalence rates of the problem of compulsive gambling.

Mr. SCHIFF. Thank you.

Mr. ASHE. People with problems in compulsive gambling.

Advertising, States do have drug and alcohol programs, do have programs for other addictions, and they don't promote drug and alcohol. The States are promoting lotteries in almost all, 37 jurisdictions, but yet they provide very little funding for any treatment or education awareness of the problems related to gambling. I think that is an important point to address.

Mr. HYDE. In closing these hearings, and with my profound thanks to all of you for your patience and for your contribution, I must say, I am troubled by the absolute—oh, Mr. Scott, I missed you, and you were kind enough to wait. Let me make my statement, then we will go to you.

I just want to say, the difference between the thrust of Professor Grinols' remarks, which were startling and serious, and Mr. Margolis' remarks, which indicate that the more Las Vegas profits, the less crime—Mr. Jahoda was somewhere in the middle—that the proliferation of opportunities to gamble creates customers for the gambling or gaming trade, and that may not be a good thing.

I used to have a doctrinaire view against gambling, and I opposed bingo in the State legislature, until I went around to some bingo halls while campaigning and realized this was a great social event for older people who got together and perhaps had conversations otherwise not available. It was great fun. So I changed my view on that.

On the other hand, I know there is a phenomenon where nursing homes are piling the folks into the bus and off they go to Atlantic City or wherever, the casinos in northern Illinois, the riverboats, spend the day. That may be a great social event for those folks, and more power to them. On the other hand, what are they spending, and what do they have left, and is this creating a problem? I don't know. I have no idea. I would like to know.

This is a big topic, lots of money involved; it passes hands quickly. We haven't talked about laundering funds, great opportunities for doing that, and that sort of thing. It is a very legitimate business, provides a lot of entertainment, a lot of jobs, is subject to abuse, as are all good things.

So this has been instructive, and I think the members who stuck it out learned something, and we will—we will certainly take under advisement the collective opinions and views and testimony of all of you.

Mr. Scott, the gentleman from Virginia.

Mr. SCOTT. Thank you, Mr. Chairman, and I guess rather than ask questions, I will just make a comment.

We have been here a long time. I, too, served in the State legislature in Virginia, and we have had horse racing, lottery, and now riverboat gambling. I have taken a different position on different games. I voted for the lottery, I voted against horse racing, because I think there is a difference in the effect that it has.

As the chairman has pointed out, what we have before us—and the gentleman from New Mexico, what we have before us is a bill to study gambling, and I think with the impact that we have, with the impact on advertising of Virginia in advertising its lottery has to deal with a statute that prohibits advertising to encourage playing the lottery but allows advertising to inform people about the lottery. We also have a little tag in there that requires in advertising and in the lottery to give people an idea what the odds are.

How you can advertise without encouraging, it is a little artistic, but at least we are trying to deal with that, with that issue.

We have the impact on crime. Some say crime increases with gambling; some say it doesn't. There are a lot of questions that I would like to see answered, and I think that is why I think a study would be helpful.

About every State in the Union is dealing with some kind of gambling bill. If it is not riverboat gambling, it is lottery, horse racing, casinos or something, and you get—the information you get as a State legislator is from one side or the other, and therefore I think it would be helpful to have an independent study commission to provide information that each State could do with what they want. They don't have to go with the evidence, or it maybe shows that it is different for different States.

But I would like to thank the chairman and indicate my support of the bill.

Mr. HYDE. Thank you very much, Mr. Scott.

Thank you very, very much, all of you. The committee is adjourned.

[Whereupon, at 3:45 p.m., the committee adjourned.]

APPENDIXES

APPENDIX 1.—STATEMENT OF HON. MICHAEL PATRICK FLANAGAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman, as a cosponsor of our colleague Congressman Frank Wolf's bill, H.R. 497, the National Gambling Impact and Policy Commission Act, I eagerly look forward to this hearing today regarding this legislation. First, however, I would like to welcome all the panelists that are here today to testify at this important hearing.

I especially want to welcome those that are here from my home state of Illinois, particularly my friend and distinguished colleague from the other body, Senator Paul Simon who, along with Senator Richard Lugar, has sponsored similar legislation to H.R. 497 in the Senate, Mr. Tom Grey from Galena, Illinois, Professor Earl Grinols of the University of Illinois in Champaign, and Mr. Jeremy Margolis from my home town of Chicago.

With the explosive growth of legalized gambling since the last national study of gambling in 1976, I believe it is time to give the gambling issue another national examination. Many questions abound, should there be a national policy regarding gambling? Should the Federal government have a role in trying to alleviate the problem of gambling addiction similar to our involvement regarding drug and alcohol addiction? Is gambling an economic boon to communities or isn't it? Is it wise for State and local governments to raise revenues through gambling? What is the involvement of organized crime when gambling is legalized in an area?

I could go for with a plethora of questions. Rather than doing that, however, I believe it is an appropriate and wise course of action for the Commission that would be established by H.R. 497 to look at these, and the other numerous issues related to the impact legal and illegal gambling is having in, and on, our society. I will be most interested to hear what our distinguished panelist have to say about Congressman Wolf's legislation.

APPENDIX 2.—STATEMENT OF HON. JOHN J. LAFALCE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Chairman Hyde and Members of the Judiciary Committee, I am honored to be here today as you engage in this important hearing on the impact of gambling on our nation.

As you may know, I have been very interested in this matter for quite some time. In the last Congress I introduced a bill, H.R. 5291, on November 29, 1994, co-sponsored by a number of our colleagues including Representative Frank Wolf, and I held hearings on this matter in the Small Business Committee. Then, in this Congress, on January 11, 1995, I introduced H.R. 462. Subsequent to that, Representative Wolf introduced a similar bill. Both of us are co-sponsors of each other's bills.

Opportunities for Americans to gamble -- and the forms of gambling available -- have proliferated geometrically over the past two decades. Yet detailed and reliable information about gambling and its impact has not been available to public policy makers at national, state and local levels. In effect, laws and regulations concerning this industry have been made on instinct, rather than being grounded on facts and careful analysis.

In the mid-1970's we had a National Commission on Gambling which reported on the state of the industry at that time. That report was useful, but it is now out of date. Why? Because of the immense changes that have taken place between then and now. In just twenty years, the following has occurred:

- Today, 21 states allow casino-style gambling, either on land or on riverboats. Twenty years ago, only one state -- Nevada -- allowed such gambling.
- As a result of regulatory changes at the federal level, Indian-owned casinos encompass fifteen percent of the industry. Twenty years ago, high stakes Indian tribal gambling operations did not exist.
- State lotteries abound; legalized gambling in some form now occurs in 48 states. In the 1970's only 13 states had lotteries.
- In the 1970's we could gamble abroad -- in London, Monaco, Asia. But there were no casinos right across our borders. Now, however, a casino in Windsor, Ontario, lures thousands of Americans across the border from Detroit and beyond. And there is serious talk of developing additional Canadian casinos near the Niagara River across from my Congressional District. There is no doubt in my mind that this could very well happen in other border communities, both north and south.

For all of these reasons, Mr. Chairman, it is incumbent on us to know more than we do about gambling and its impact on communities. To that end, I introduced a bill last year in the 103rd Congress, and reintroduced it this year in the 104th, to establish a Commission on the Review of National Policies Toward Gambling. My bill is very similar to the ones subsequently introduced by Congressman Wolf and Senator Simon, with whom I have worked to help bolster support for the study we all seek.

Last year, when I was privileged to Chair the Committee on Small Business, we held hearings on the impact of gambling on the small business community. We heard some valuable testimony from various sources on the impact of gambling. Some witnesses thought that it was a boon; that it brought economic development and new jobs. Others expressed concern, suggesting that gambling simply competed for a finite amount of leisure dollars, and thus had a deleterious effect on other businesses such as movie houses, restaurants, book stores, etc.

But what we also learned is the true extent of our ignorance about this important matter. Few empirical studies have been done, and the industry likes it that way. States, Indian Tribes and now nations are rushing headlong into the development of larger and larger gambling enterprises, buying into the thesis that the result will be an essentially painless revenue stream. But is it painless? Is it endless? Do revenues outpace costs?

What are the true costs of increased gambling? What about crime, addiction, the impact on families?

Mr. Chairman, I submit that we really do not know the answers to these questions, and many more, about this industry. Even more important, I suggest that without answers, neither we nor our counterparts in the state legislatures or city councils of our land can make reasoned, thoughtful decisions about the future. For these reasons, I applaud you for holding these hearings today, and I hope that you and your colleagues will report out a bill -- be it mine, Representative Wolf's, Senator Simon's or another -- so we can move forward with a thorough study in a timely way.

Thank you again for looking into this issue. I look forward to working with you as we move forward.

APPENDIX 3.—STATEMENT OF SCOTT HARSHBARGER, ATTORNEY GENERAL, COMMONWEALTH OF MASSACHUSETTS

I. Introduction

As president-elect of the National Association of Attorneys General, I have had the opportunity to consult with many other members of the law enforcement community on the effects of gambling on a city or state. Overwhelmingly, the response has been "Don't do it." Almost every Attorney General who has faced the issue of casino gambling in their state has cautioned me that there are a range of public safety, regulatory, and social issues that are never addressed before the introduction of gambling.

As the chief law enforcement officer in Massachusetts and a strong opponent of casino gambling, I have been presenting the downside to what gambling lobbyists have painted as the solution to the state's economic problems. One of the biggest hurdles I have found is the incredible lack of reliable research on the effects of gambling.

H.R. 497, sponsored by Representative Frank Wolf, creates an unbiased national commission that would thoroughly examine the effects of gambling on the quality of life in our cities and towns. Such a commission would be instrumental in showing the citizens of this country the true economic and social costs that are incurred when casino gambling is introduced into a region. I hope my comments will energize support for H.R. 497 and the efforts of Representative Wolf to establish a National Gambling Impact and Policy Commission which can bring these issues into the national spotlight.

II. Street Crime

One of the most noted consequences of casino gambling has been the marked rise in street crime. Across this nation, police departments in cities that have casino gambling have recorded surges in arrests due to casino-related crime. In many cases, towns that had a decreasing crime rate or a low crime rate have seen a sharp and steady growth of crime once gambling has taken root.

The most storied downturn is, without a doubt, Atlantic City. Atlantic City's crime rate had been on the decline before casinos came to New Jersey. However, between 1977-1990 there was a 230 percent increase in crime in Atlantic City including a:

- 156 percent increase in rapes;
- 316 percent increase in aggravated assaults;
- 451 percent increase in the number of larcenies.

Other states that have legalized land-based casino gambling-- including Colorado, South Dakota, and Connecticut --have similar stories:

After gambling came to Cripple Creek, Colorado, the town police chief noted that emergency service calls to his department went from 40 calls a month to 45 calls per day. Driving under the influence arrests have increased from 4 per year to 1 per week.

The story was much the same in Deadwood, South Dakota where criminal cases rose from 1,259 to 3,295 during the three years after gambling was introduced to the area.

There are indications that Ledyard, Connecticut is following the trend. Ledyard's crime rate has doubled every year that Foxwoods casino has been open. Arrests for forgery, bad checks, credit card fraud, vandalism, and drunken driving rose from 299 in 1992 to 496 in 1993 and to 1,155 in 1994.

The area around Ledyard experienced one case of counterfeiting in the year before the casino opened; last year 98 cases were reported. According to the Secret Service this is because the casino is "an obvious place" to try to pass counterfeit money. Retailers in the Ledyard area are reportedly now unwilling to accept bills over $20.

III. Organized Crime

In addition to street crime, organized crime is a second danger that accompanies casino gambling. While proponents might argue that organized crime's connection with casinos stopped with Bugsy Siegal in Las Vegas, the facts do not bear that out. In 1994 in Louisiana, seventeen individuals associated with the Marcello, Genovese, and Gambino crime families were indicted for RICO violations for profit skimming through video poker machines that had recently been legalized.

The attractions of casinos for organized crime members are many:

- **Money laundering**--casinos are a perfect medium for exchanging large sums of cash acquired through loan sharking, prostitution, drug trafficking, and sale of stolen property.

- **Sports booking**--casinos and sports tables provide bookies with a pool of potential "numbers" bettors and sports wagerers who may be looking for better odds or a larger pot of winnings.

- **Support services**--while strict regulation and licensing may keep organized crimes' connection with the casino itself to the minimum, mob infiltration of the construction industry and of support services such as those providing food, linens, and liquor has been noted by law enforcement officials including Massachusetts United States Attorney Donald Stern.

- **Profit skimming**--the volume of transactions during one night of gambling at a casino provides the perfect cover for skimming small amounts from table winnings. A moderate 40 table operation can provide as much as $5 million in hidden revenue.

IV. Public Corruption

In nearly every state that has casino gambling, there have been instances of public corruption. No tale is more telling than the practices of individuals involved with casino regulation in New Jersey. As then-Deputy United States Attorney Mark L. Wolf noted, "within the five years after casinos came to Atlantic City about 50 local public employees and officials were reported to have real estate transactions with casinos, own stock in them, or have other financial ties to them. These individuals included the chief of police, the city commissioner for public safety, and five of the nine planning board members. A few weeks before a prohibition against hiring public officials went into effect in New Jersey, 150 state and local officials left for gambling industry employment."

Recently in Louisiana, FBI agents unveiled wiretap transcripts in which several members of the state legislature discussed taking bribes from video-poker lobbyists. The bribes were allegedly given in exchange for lawmakers stalling legislation that would have let the public vote on whether to repeal gambling.

IV. Law Enforcement Cost

The easy response to these problems is that by increasing the amount of police officers or allocating more money for law enforcement agencies, the crime problems can be averted. To local officials prone to give into this quick-fix solution, I would point to the example of Atlantic City: recognizing the dramatic increase in crime, Atlantic City increased their officers-to-inhabitant ratio two-fold and their budget three-fold. Nevertheless, since these increases, the crime rate has nearly tripled.

Outside of having to make increased outlays for the operation of local law enforcement agencies, cities and towns will have to absorb other law enforcement expenditures such as the cost for prosecution and incarceration. The City of New Orleans' study on gambling revealed that the cost of increased criminal activity from one casino was just under $5 million. They projected that increased legalized gambling in the region could introduce an additional 10,000 criminal cases at a cost of $1.4 million to the city.

Gambling comes with high administrative and regulatory costs as well. The State of New Jersey expends $57 million a year just to regulate casino activity. They have three hundred state troopers and over thirty assistant attorneys general working solely on casino investigations.

The question for elected officials and policy makers is whether the supposed benefits have taken into account all of these costs.

IV. Compulsive Gambling

The foregoing does not include the other social cost that the city and state will have to bear. The advent of casinos in any city signals an increase in pathological gamblers.

Not only will the host city see a rise in the number of compulsive gamblers due to the tourist influx, but it will, more importantly, witness an increase in problem gambling in its native population. Several studies, including Professor Robert Goodman of the University of Massachusetts at Amherst, suggest that problem gambling is a function of the number of gambling opportunities available. Anyone who doubts this should contact Gamblers Anonymous and ask where their largest offices are located. In Atlantic City alone, Gambler's Anonymous chapters rose from 5 to 47 since the passage of the casino referendum in 1977.

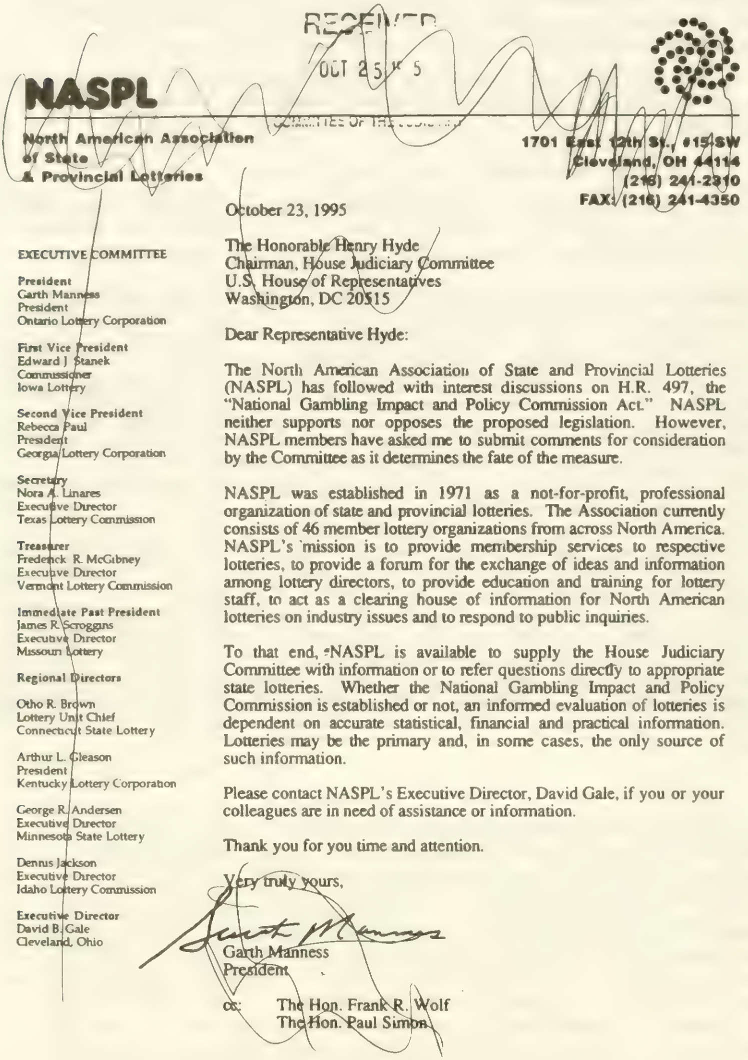
Compulsive gambling is not a problem to be taken lightly. It is this country's third largest addiction and effects between 1.5 percent and 6 percent of the adult population and 8 percent of the teen-age population. Professor Goodman states in his study that the cost to the public (accounting for lost wages, arrest, and cost of prosecution, etc.) is $13,200 per compulsive gambler per year. Even if we assume that a smaller state the size of Massachusetts has below the minimum range of compulsive gamblers, at around 1 percent, the cost to my state would be several hundred million dollars per year.

VI. Conclusion

I hope that the foregoing will start people thinking about the true costs of gambling. We must continue to question how casinos and other state-sponsored gambling initiatives will effect our communities. What will be the increase in street crime? Will organized crime take root? Will there be an unbearable strain on city services? What will be the costs to the community of pathological gambling? Will any benefits outweigh the fiscal and social costs? In sum: what will be the effect on the quality of life in our cities and towns throughout this nation?

I support H.R. 497 as one way to finally obtain some concrete answers to these questions.

APPENDIX 4.—STATEMENT OF GARTH MANNESS, PRESIDENT, NORTH AMERICAN ASSOCIATION OF STATE AND PROVINCIAL LOTTERIES



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NASPL
North American Association of State & Provincial Lotteries

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Executive Director
Idaho Lottery Commission

Executive Director
David B. Gale
Cleveland, Ohio

October 23, 1995

The Honorable Henry Hyde
Chairman, House Judiciary Committee
U.S. House of Representatives
Washington, DC 20515

Dear Representative Hyde:

The North American Association of State and Provincial Lotteries (NASPL) has followed with interest discussions on H.R. 497, the "National Gambling Impact and Policy Commission Act." NASPL neither supports nor opposes the proposed legislation. However, NASPL members have asked me to submit comments for consideration by the Committee as it determines the fate of the measure.

NASPL was established in 1971 as a not-for-profit, professional organization of state and provincial lotteries. The Association currently consists of 46 member lottery organizations from across North America. NASPL's mission is to provide membership services to respective lotteries, to provide a forum for the exchange of ideas and information among lottery directors, to provide education and training for lottery staff, to act as a clearing house of information for North American lotteries on industry issues and to respond to public inquiries.

To that end, NASPL is available to supply the House Judiciary Committee with information or to refer questions directly to appropriate state lotteries. Whether the National Gambling Impact and Policy Commission is established or not, an informed evaluation of lotteries is dependent on accurate statistical, financial and practical information. Lotteries may be the primary and, in some cases, the only source of such information.

Please contact NASPL's Executive Director, David Gale, if you or your colleagues are in need of assistance or information.

Thank you for you time and attention.

Very truly yours,

Garth Manness

Garth Manness
President

cc: The Hon. Frank R. Wolf
The Hon. Paul Simon

APPENDIX 5.—ADDITIONAL MATERIAL SUBMITTED FOR THE HEARING BY FRANK J. FAHRENKOPF, JR., PRESIDENT AND CEO, AMERICAN GAMING ASSOCIATION

AMERICAN GAMING ASSOCIATION

October 4, 1995

The Honorable J. Henry Hyde
Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515-6216

Dear Henry:

I enclose two additional items to supplement my written testimony for the record. The first is a response to Professor Earl Grinols' prepared testimony and is entitled *Calling the Bluff: Analyzing the Legalization of Casino-style Gaming. A Comment on "Bluff or Winning Hand? Riverboat Gambling and Regional Employment and Unemployment"* by Dr. William Eadington, Professor of Economics and Director of the Institute for the Study of Gambling and Commercial Gaming at the University of Nevada-Reno. The second submission is a compilation of statistics from 1994 Las Vegas Visitor Profile Study which shows that the average casino patron is considerably different from the poor and unsuspecting victim stereotyped by gaming opponents.

Thank you for the opportunity to testify on behalf of the American Gaming Association. Please do not hesitate to call if I can provide additional information for you or members of the Committee.

Very truly yours,

Frank J. Fahrenkopf, Jr.
President and CEO

cc: Joseph Gibson, Counsel

Enclosures

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Calling the Bluff: Analyzing the Legalization of Casino-style Gaming A Comment on 'Bluff or Winning Hand? Riverboat Gambling and Regional Employment and Unemployment'

by

William R. Eadington
Professor of Economics
Director
Institute for the Study of Gambling & Commercial Gaming

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University of Nevada, Reno

Clearly, legalization of casino-style gaming in America is on a roll. As recently as late 1988, there were only two states in the United States with legal operating casinos. However, by 1994 there were as many as 23 states which had authorized either riverboat, dockside, mining town, land based, or Indian casinos.

In Canada, similar change has occurred. Prior to 1990, only small stakes charity casinos could be found in various western provinces. By the middle of the decade, there were permanent casinos in the major metropolitan areas of Winnipeg, Montreal, Halifax and Windsor (across the river from Detroit), with active planning underway for casinos in Regina, Toronto and Niagara Falls.

In 1994, commercial gaming industries in the United States — including casinos, lotteries, Indian gaming, bingo, charity gaming, pari-mutuel wagering, and card clubs — generated revenues of $40 billion, about 0.7 percent of personal incomes.[1] Measured in revenues, the legal commercial gaming has more than tripled since 1982. It is not inconceivable that, if present trends continue, commercial gaming could become a $100 billion industry by the year 2005.[2]

This rapid shift in the legal status and presence of gambling has not occurred without controversy. Clearly, the recent impetus for legalization has been a desire to capture the economic benefits that come along with creation of a new and lucrative industry. However, gambling has been illegal in most societies for most of history for a variety of reasons. The major arguments against gambling have been three-fold: gambling is immoral and is inconsistent with the protestant ethic; gambling is linked to organized crime and political corruption; and gambling leads to compulsive gambling among a small percentage of the population.

The first of these arguments has diminished in clout during the second half of the 20th century due partly to society's changing ethical standards. However, it is also due to the waning authority of church and state as arbiters of moral standards, and also by the fact that state governments — through lotteries — and churches — through bingo and charity gambling — have become major purveyors of gambling services.

Experience has taught us that issues of political corruption and organized crime are more bi-products of illegal gambling than of well-regulated legal commercial gaming. This reality — along with the corporatization of commercial gaming industries and the professionalization of regulatory bodies — has undermined the second argument against gambling.[3]

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[1] See Eugene Christiansen, "Gaming in America — Gross Annual Revenues," *International Gaming and Wagering Business*, August, 1995, p. 1 ff.

[2] See William R. Eadington, "Understanding Gambling," in *Research & Exploration*, forthcoming.

Compulsive or pathological gambling remains the most real and serious side-effect of gambling legalization. There are likely to be significant correlations between the proliferation of commercial gaming and compulsive gambling in the years ahead, and society will have to determine the best ways to cope with them. This situation is not unlike the relationship of legal production, distribution and sale of alcoholic beverages and their contribution to the problems of alcoholism with all associated social costs.[4]

Nonetheless, many jurisdictions in the United States, Canada, and elsewhere have taken the gamble to legalize an otherwise prohibited activity in the hopes or expectations of capturing significant economic benefits from doing so. However, this has not been done without controversy. Opposition has arisen from various quarters, some based on religious considerations, some based on fears that there are social costs that will accompany legal gaming about which we are still ignorant. A recent article in the *Illinois Business Review* by Professor Earl Grinols tries to develop a different spin, arguing against the conventional wisdom that commercial gaming is economically beneficial.[5]

The premise of Grinols' argument is laid out in the opening section, "Starting with Two Strikes." Grinols claims that gambling reduces national income (*Strike One!*), and creates social costs that must be paid for out of taxes on those who do not gamble (*Strike Two!*). As with the Great American Pastime, according to Grinols, we should now sit back and wait for the inevitable *Strike Three!* However, careful reading of his article cannot find substance for either of the first two strikes; they are clearly bad calls.

Grinols' only justification for the first strike is a quote from economist and Nobel laureate Paul Samuelson: ". . .(gambling) involves simply sterile transfers of money or goods between individuals, creating no new money or goods. Although it creates no output, gambling does nevertheless absorb time and resources. When pursued beyond the limits of recreation, where the main purpose after all is to 'kill' time, gambling subtracts from the national income."[6]

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[3] Johnston, David, (1992). *Temples of Chance: How America Inc. Bought Out Murder Inc. to Win control of the Casino Business*. New York: Doubleday.

[4] See, for example, Howard Schaeffer, Sharon Stein, Blase Gambino and Thomas Cummings (eds.). *Compulsive Gambling* (1989). Lexington, Massachusetts: Lexington Books; and William R. Eadington and Judy A. Cornelius (eds.), *Gambling Behavior and Problem Gambling* (1993). Reno: Institute for the Study of Gambling & Commercial Gaming, University of Nevada, Reno.

[5] Earl Grinols, "Bluff or Winning Hand? Riverboat Gambling and Regional Employment and Unemployment," *Illinois Business Review*, Spring, 1994, pp. 8-11.

[6] Paul Samuelson, (1970). *Economics*, New York: McGraw-Hill, p. 402.

Samuelson's quote ignores the value of services rendered to customers who freely choose to allocate their own resources in pursuit of entertainment in gaming establishments; ignores and then assumes away the recreational value of gambling; and is itself a value-laden statement as opposed to a "scientific" finding. This was taken from a *Principles of Economics* textbook, written for College freshmen, at a time when gambling was widely illegal, and when the perceived association between organized crime and gambling was strong. This quote is not drawn from a serious piece of Samuelson's research, and certainly reflects the author's own distaste for gambling and the moral sentiment of the time, rather than any "logical positivist" position or objective truth that Samuelson's reputation might otherwise imply. One wonders what Samuelson might say about other modern "time-killing" pursuits such as watching television, playing games on one's personal computer, or communicating through computer billboards via the Internet.

So much for the first pitch. Now for the second pitch. Grinols claims gambling differs from other entertainment by imposing costs on the private sector from those who do not gamble. His justification is an untraceable source that claims ". . .Independent estimates suggest that were the entire nation to allow all forms of gambling the costs would equal 0.5 percent of GDP annually" (p. 8). This is quite a claim. However, where did the independent estimates come from? First, there is no way for the reader — or the professional economist — to trace or evaluate the "independent estimate"; it could be from Professor Grinols' mother, for all we know. Second, the number he is talking about is about $25 billion a year — or $100 per capita — no small amount by anyone's measure. Note that this figure is nearly as large as the gross receipts of all legal commercial gaming industries in America. In any serious reviewed publication, no competent economist would be allowed to get away with such sloppy claims. Clearly, this is a screwball idea, or perhaps an underhanded pitch.

Later in the same paragraph, Grinols states: ". . .A study in Connecticut found that raising $362 million in taxes on gambling cost the state $554 million. Other forms of entertainment — the symphony, major league sports, restaurants — do not have the same disadvantages as gambling and do not face the same opposition" (p. 8).[7] Again, no citation, no way to trace the methodology or the accuracy of the source.

Strike Two indeed!

The discussion Grinols develops regarding exporter firms, secondary firms, and new job creation moves into sounder economic waters. Grinols draws the essentially accurate conclusion that ". . .taking all areas into account, gambling does not create jobs. Rather, it shifts them from one location to another and converts some jobs that would have been devoted to other things into gambling jobs." However, he fails to note one of the principles of economics relevant to this situation — which can also be found in Samuelson: "consumer sovereignty." If one assumes gambling is as legitimate as any other consumer pursuit, then if consumers are not allowed to participate in the activity in spite of the fact that they would freely choose to do so, there is a net reduction in consumer well-being — a reduction in "consumer surplus" — because their choices are constrained. As a result, they are forced to allocate their personal resources elsewhere, which moves jobs to other activities and industries.

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[7] It is worth mention that Grinols fails to note the substantial taxpayer subsidies imposed by the construction of new sports stadiums, concert halls, and urban redevelopment districts.

In general, this author is in agreement with Grinols' claim that if all gambling expenditure comes from locals, there is a shifting of economic activity within that region rather than net job creation. However, Grinols ignores the phenomenon of "import substitution:" if local casinos cause local residents to spend money within their region rather than "import" gambling services from, say, Las Vegas by visiting and gambling there, there is net positive economic impact within the local economy of the same magnitude as tourist-based spending would generate.

There are then more wild pitches. Grinols' linkage of the per capita expenditure of Chicagoans on gambling to the claim in footnote 4 (p. 9) is one of the great *non sequiturs* of all time: ". . .most of the gambling revenues would come from city residents, and the city would lose between two and three jobs for every gambling job." This is the claim that forms the foundation of Grinols' entire article, but there is absolutely no conceptual or empirical basis that he develops to support it, except for the "devil theory" of gambling: gambling is bad, therefore it must lead to bad economic consequences.

The empirical sections of Grinols' paper are good examples of obfuscation by statistics. To try and imply that one could do a simple "before and after" comparison and attribute any changes — positive and negative — to the changing legal status of a riverboat casino, is both misleading and deceptive. With the exception of the Metropolis, Illinois casino, jobs created by each riverboat form a very small portion — well under 5 percent — of the local labor market. Thus, actual trends in labor markets are going to be more greatly influenced by other economic factors and area employers than the riverboat casinos. Furthermore, in some cases, as in Alton and East Dubuque, the real labor market crosses state lines; therefore drawing conclusions solely from the employment patterns in Illinois counties provides only a partial picture. Thus, it should not be surprising that there is ". . .no obvious sustained (employment) pattern with the exception of the Player's riverboat (Metropolis)" (p. 10).

Incredibly, Grinols goes on to draw the conclusion: "Nevertheless, these figures seem to indicate that a substantial number of jobs were lost elsewhere in the affected markets so that net jobs were a small or zero percent of direct employment on the riverboats" (p. 11). Were the jobs lost elsewhere a direct result of the riverboats? That is the implicit — and certainly unfounded — claim that Grinols is making.

In the section, "Counterfactual Tests," Grinols cites regressions run on region-by-region employment data, using a "before and after" approach and, apparently, a dummy variable to account for the opening of the riverboats. He concludes — as might be expected — that "None of the riverboats . . . showed a significant effect on reducing unemployment or increasing employment. . ." (p. 11) which, when translated from the jargon of the statistician, means there is too much noise or too little causality to draw any meaningful conclusions. However, he then *draws the conclusion* ". . .Adding together the estimated effects in all markets suggests that the riverboats actually reduced employment by 2,489 jobs — an amount equal to 32 percent of the direct riverboat employment — and increased unemployment of 829 jobs, or 11 percent of the direct riverboat employment" (p. 11). This sounds awfully precise for insignificant statistical results. He does add the disclaimer that ". . .such figures showing a harmful effect should not be taken as serious numbers since they are based mostly on estimates that could not be statistically distinguished from 0" (p. 11). His presentation on this issue is simply misleading.

In the "Conclusion" section, Professor Grinols hedges his position as any good economist would: ". . .the data are unable to show any net effect on unemployment and very little net effect on employment as a result of gambling in the communities where it has been introduced. . .Claims of substantial employment benefits should, therefore, be questioned" (p. 11). Fair enough. But the reader — and the professional economist — should be given much better analysis than this article delivers. The role of the economist should be to use his or her analytical powers and tools to provide unbiased and objective analysis on important public policy issues, to help policy makers and the general public better understand the implications of choices and the unfolding of events before them. The economist should be able to clear the waters of honest debate, not muddy them with confusing and inconsistent arguments. Regrettably Professor Grinols fall short on all these counts.

There are good reasons to oppose the spread of commercial gaming in communities and states, just as there are good reasons to favor such policies. However, for citizens to make reasoned and wise decisions based on rational positions and credible evidence, competent economic analysis should provide a clear and meaningful road map.

The arguments presented by Professor Grinols border on sophistry. They draw upon mysterious sources without citations, carry heavy innuendo of lurking evils, and present unsubstantiated "findings" to reach their conclusions in a clear attempt to strike out the spread of gambling. I suspect Professor Grinols felt in his heart his position was correct long before he put pencil to paper — or fingers to the keyboard — to "discover" the real economic impacts of riverboat gaming in Illinois. This does not serve the important process of determining the actual impacts of gambling on society, nor does it meaningfully contribute to the debate of determining the appropriate presence of commercial gaming in modern economies.

Las Vegas Visitor Statistics

- 28,214,362 people visited Las Vegas in 1994.
- 78 percent of 1994 visitors have visited Las Vegas more than once. 1994 visitors had visited Las Vegas an average of 8.8 times during the last 5 years.
- The average visitor to Las Vegas stayed four days. 92 percent of Las Vegas visitors are over the age of 21.
- 60 percent of those visiting Las Vegas during 1994 said that vacation or pleasure was the main purpose of their trip. 92 percent of 1994 visitors gambled while in Las Vegas. On average, 1994 visitors spent five hours a day gambling. The average gambling budget for 1994 visitors to Las Vegas was $479.
- 88 percent of 1994 visitors to Las Vegas were "very satisfied" with their trip to Las Vegas and planned to return.
- 66 percent of those visiting Las Vegas in 1994 were married. 61 percent have some college education. 91 percent were either employed or retired. 4 percent were homemakers. 3 percent were students. The median age of those visiting Las Vegas in 1994 was 46. 54 percent had an annual income of $40,000 or more.

Source: 1994 Las Vegas Visitor Profile Study, Las Vegas Convention and Visitors Authority

APPENDIX 6.—STATEMENT OF GAIASHKIBOS, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS

1. Introduction.

The National Congress of American Indians (NCAI) is the oldest, largest, and most representative Indian advocacy organization in the United States, comprised of some 190 Indian tribes and Alaska Native villages. The NCAI was begun in 1944 in response to federal policies of "termination" whereby the unique federal trust relationship was severed, and "assimilation" whereby Indian people were encouraged to blend into the larger culture. These policies were disastrous for Indian tribal governments and people who are just now beginning to recover the equilibrium lost in the 1940s and 1950s.

As NCAI is dedicated to ensuring the long-term survival and health of tribal governments, I respectfully submit this Statement on behalf of our member tribes concerning H.R. 497, "(a) bill to create the National Gambling Impact and Policy Commission".

2. The Establishment of a New Federal Commission

At a time when this Congress is attempting to rein in big government, reduce federal outlays, and strip away the layers of stifling bureaucracy, Section 2 of H.R. 497 purports to create a new federal agency --- the "National Gambling Impact and Policy Commission". The Commission's primary duty is "to conduct a *comprehensive legal and factual study* of gambling in the United States and existing Federal, State, *and local policy and practices* with respect to the legalization of prohibition of gambling activities *and to formulate and propose such changes* in those policies and practices *as the Commission shall deem appropriate*." (emphasis added). This legislation grants to the new Commission broad latitude in terms of both matters reviewable and its authority to propose and recommend changes in local and tribal gaming policies and practices.

2.A The Commission's Scope of Review

The Commission is mandated to review the economic impacts of gaming on the nation, the states, political subdivisions, and Indian tribes; the economic impact of gambling on "other businesses"; political contributions and influence of gambling businesses and promoters on the development of public policy regarding gambling; what relationship there is between gambling and crime; and a host of other issues relating to the impacts of gaming.

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Any discussion of the significance of gaming dollars to tribes must first acknowledge the fact that federal appropriations available to Indian tribal governments to provide services and foster growth are rapidly dwindling. Because of the trust relationship and the obligations of the Federal government, appropriations to tribes are non-discretionary dollars. Despite the non-discretionary nature of Indian programs, efforts to reduce federal budget deficits are resulting in massive funding reductions in Indian programs. As federal dollars become scarce, the need for services and material goods is increasing and Indian gaming, which is but one avenue of economic development for Indian tribes, is helping to meet the demands for capital, jobs, and development.

In Indian country, the economic impacts on tribes, surrounding communities, and other businesses have been positive and significant. For many Indian tribes and surrounding non-Indian communities, gaming activities are the only business and economic development initiatives that have generated substantial streams of revenue. There are, in addition, beneficial multiplier effects associated with Indian gaming which encourage and perpetuate secondary and tertiary economic activities on and near Indian reservations.

We welcome the opportunity to discuss the many benefits of Indian gaming. For example, in San Diego County alone, Indian tribal gaming facilities have been responsible for the creation of more than 1,500 new jobs with a payroll of more than $22 million dollars. The Sycuan Band, located in San Diego County, employs 800 people, 84% of whom are non-Indians. In the State of Minnesota, Indian gaming has grown to become the seventh largest employer in the entire state, and in the State of Connecticut, Indian gaming will generate more revenues to the state than its largest corporate taxpayer, which happens to be one of this nation's preeminent defense contractors.

The impact of Indian gaming on other businesses is similarly positive and significant. A recent study of Indian gaming in the State of Wisconsin [1] determined that the 15 Indian tribal casinos employ 4,500 people, 2000 of whom are non-Indian, and spend $62 million dollars annually in purchases of goods and services supplied by surrounding businesses. According to the study, one-half of these 4,500 people were previously unemployed and 20% were welfare recipients. Other tribes have reported significant reductions in other social service delivery programs such as Aid to Families with Dependent Children.

In addition to these positive impacts, there are significant effects stemming from the increased purchasing power of tribal employees, Indian and non-Indian, who purchase food, housing, clothing, transportation, fuels, and a host of other necessities of life. Finally, the ripple effects of casino visitors spending millions of gaming-related tourist dollars cannot be underestimated. Indian reservations are starved for private capital, basic infrastructure, and activities to foster value-added activities and employment opportunities. Indian gaming helps to meet these demands by generating revenues and fostering mutually beneficial relationships with other businesses such as grocers, hotels, service stations, food and beverage dealers, and suppliers of other goods. In short, the economic impacts from Indian gaming are substantial, positive, and are helping hundreds of thousands of Indians and non-Indians alike in meeting the basic demands of life. In the larger sense, Indian gaming has helped rein in the skyrocketing unemployment and reduce high levels of welfare dependence plaguing Indian reservation economies. By providing a ready source of revenue to Indian tribal governments, gaming dollars are used to rehabilitate dilapidated housing units; construct and maintain water and sanitation facilities; and to pay for police, fire, ambulance, and educational services to their members.

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[1] Similar results were found in studies on Indian gaming in the States of Minnesota and Michigan; see "Speaking The Truth: Three Studies of The Positive Impact of Indian Tribal Gaming", by National Indian Gaming Association, 1993 edition.

Section 4(a)(2(H) of the bill is couched in terms of "costs and benefits" leading the uninformed to believe that the regulation of Indian gaming is not cost-effective for either the tribes or the federal government. This is simply not true. As the real party in interest, Indian tribes have the most to gain by maintaining the integrity of their games, and therefore Indian tribes are engaged in intensive self-regulation of their gaming activities. At the federal level, the National Indian Gaming Commission (NIGC) monitors and regulates certain aspects of Indian gaming. The functions of the NIGC are paid for both by federal appropriations ($1 million in FY95 and a proposed $1 million for FY96), as well as substantial "fees" on tribal operations to fund the very commission that regulates Indian gaming.

As mandated by the IGRA, Indian tribes pay a statutorily mandated percentage of revenues from their class II gaming operations to finance the operations of the NIGC.[2] Given the background check functions, and the large number of tribe-management company agreements it must review, the NIGC has performed well given its funding limitations. In addition, it should be remembered that the benefits provided by Indian gaming are done within a system regulated by tribes and the Federal government.

2.B. Regulation by States and Makeup of the Commission

In terms of the "scope" of the proposed Commission's mandate, most disturbing from the tribal perspective is Section 4(a)(2)(H) which requires the Commission to conduct "a review of the costs and effectiveness of State and Federal gambling regulatory policy, *including whether Indian gaming should be regulated by States instead of the Federal government*...". (emphasis added). Realizing the complexities of our federal system, the Framers designed the Constitution so that the federal government is charged with certain fundamental obligations including "Indian affairs". Like national defense, supervision of the public lands, and protection of basic liberties, Indian affairs simply cannot be turned over to the states. Indian tribes are unique entities with which the federal government entered solemn and extant treaties, and by virtue of those agreements the U.S. has a special legal and political relationship with Indian tribal governments.

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[2] IGRA requires class II operations to be levied to carry out the functions of the National Indian Gaming Commission. IGRA provides for a graduated fee structure of between 0.5 percent and 2.5 percent on the first $1.5 million dollars in gross revenues; and a ceiling rate of not more than 5 percent on gross revenues in excess of $1.5 million dollars. 25 U.S.C. Sec. 2717(a)(2)(A).

By virtue of the U.S. Constitution and the Indian Commerce Clause [3] Indian affairs is an area of near-exclusive federal domain and cannot simply be returned to the states as are other federal programs and responsibilities. Since the 1987 Supreme Court decision in California v. Cabazon and Morongo Bands of Mission Indians, [4] which formed the statutory basis for the 1988 Indian Gaming Regulatory Act, [5] it has been recognized that the regulation of Indian gaming is a matter for the federal government.

As a result of major concessions of tribal sovereignty as embodied in the 1988 IGRA, there is significant State involvement in the form of class III compact negotiation and completion. To increase state involvement any more than now exists would result in an unacceptable erosion of tribal sovereignty and autonomy and would seriously damage the tribes' ability to govern themselves. H.R. 497 calls for a nine-member panel to be appointed from "persons specially qualified by training and experience". The bill states that "one of these nine members "should be a Governor of a State". In addition, three members each are to be appointed by the Speaker of the House, the Senate Majority Leader, and the President, respectively. Presumably, the insertion of the set-aside for State Governors was made in large part to the fact that State gaming policy and practice could be reviewed by the Commission. We oppose this proposal regarding appointments because it does not provide for an appropriate degree of Indian tribal involvement.

3. Conclusion

Mr. Chairman, Indian gaming has brought unprecedented change to those tribes that for years were entirely dependent on the federal government. The success some tribal governments have achieved has not been matched by any other type of business venture. Understanding the reasons for H.R. 497, we nevertheless strongly object to the potential for greater state regulation of Indian gaming, and we strongly oppose non-involvement of Indian tribes in the make-up and appointment powers of the proposed Commission.

With proposed massive reductions in federal appropriations for Indian programs, tribes are not in the position of funding yet another layer of bureaucracy, and are certainly not in the position of paying an income tax on their gaming revenues as has been proposed by the House Ways and Means Committee. This proposed Commission will absorb precious federal dollars at a time when its existence is of questionable necessity. Numerous studies of the type contemplated by H.R. 497 have already been undertaken at the tribal and federal level regarding Indian gaming and they do not reveal a compelling need for the type of Commission proposed by H.R. 497. In light of this, we see no justifiable reason to expend federal and tribal resources to duplicate efforts already made.

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[3] U.S. Const. Art. I, Sec. 8, cl. 3.

[4] 480 U.S. 202 (1987).

[5] 25 U.S.C. Sec. 2701 et seq.

In terms of regulation, like most other tribal activities Indian gaming is heavily regulated by the tribes themselves and by the federal government. In IGRA, tribes have already conceded significant aspects of their sovereignty to the states, and this delicate balance will be inalterably destroyed if further erosions of tribal sovereignty are permitted as proposed by H.R. 497.

It is our sincere hope, Mr. Chairman, that the resources that would be required to fund the proposed Commission and yet another federal study be put to better use on the priority issues of our nation such as elder and care, nutrition, housing, infrastructure development, and other unmet needs of our communities.

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APPENDIX 7.—STATEMENT OF CHLORIS LOWE, PRESIDENT, HO-CHUNK NATION

Good morning, Chairman Hyde and Committee members. My name is Chloris Lowe. I am the President of the Ho-Chunk Nation of Wisconsin ("Nation"). I appreciate the opportunity to submit testimony on behalf of the Nation for the consideration of the Committee concerning H.R. 497, the National Gaming Impact and Policy Commission Act.

H.R. 497 would establish the National Gambling Impact and Policy Commission "to conduct a comprehensive legal and factual study of gambling in the United States and existing Federal, State, and local policy and practices with respect to the legalization or prohibition of gambling activities" and "to formulate and propose such changes in those policies and practices as the Commission shall deem appropriate." Section 4(a)(1). The Commission would be required to examine various aspects of the social and economic impact of gaming, including: the economic impact of gambling upon the United States, states, political subdivisions and Native American tribes, the economic impact on small businesses, the political contributions and influence of gambling businesses and promoters on the development of public policy regulating gambling, the relationship between gambling and crime, the impact of pathological or problem gambling, the demographics of gamblers, and the effectiveness of existing enforcement and judicial mechanisms to regulate gambling giving particular consideration of whether Indian gaming should be regulated by states instead of the federal government, and other relevant issues. Section 4(a)(2).

The Commission would be made up of nine members with three each being appointed by the Speaker of the House of Representatives, the majority leader in the Senate, and the President. Section 3(a). Those appointed must be "specially qualified by training and experience," and one must be a state governor.

The sponsor of the bill, Congressman Wolf (R-VA) explained in a statement released upon introduction of H.R. 497 that he feels "America is on a gambling binge." 141 Cong. Rec. E86 (daily ed. Jan. 11, 1995). He also believes that in sponsoring gambling "[g]overnments often fail to consider, . . . , that gambling can bring on economic problems to their jurisdictions that far outweigh any benefits" and that "[n]egative impacts on State and local economies, small businesses, and families can no longer be ignored."Id.

The Nation recognizes the need for tribal and state governments to address the social and economic effects of legalized gambling on American society, especially when conducted by the governments themselves. That is why the Nation has taken affirmative steps to address some of these effects, by, for example, supplementing the resources available to the Juneau, Jackson, Wood and Sauk County sheriffs departments to carry out their law enforcement duties. Thus, we share the spirit of concern for the negative effects of gambling that H.R. 497 seeks to address.

The Nation is concerned, however, that H.R. 497 would mandate the Commission to study gaming, particularly Indian gaming, with the outcome of the study pre-determined. Specifically, H.R. 497 requires the Commission to study the negative effects of gaming, but not its benefits. Both sides of the question should be addressed -- for tribal, state, and local governments -- if gaming is to be studied on terms that are fair.

Gaming has had very significant positive impacts in Indian country. Indian tribes use gaming revenues to provide desperately needed education, health care and jobs for their members, sometimes virtually eliminating unemployment on their reservations. Pervasive poverty had remained until very recently on virtually all Indian reservations. The words of President Nixon's July 8, 1970 Message to Congress ring true even today, "The first Americans -- the Indians -- are the most deprived and most isolated minority group in our nation. On virtually every scale of measurement -- employment, income, education, health -- the condition of Indian people ranks at the bottom." Despite dramatic improvements in the past 25 years, according to the Census Bureau, unemployment among all Indians is still nearly 15 percent, and some tribes have far higher rates. The National Center for Education reports that more than one-third of Indian children still fail to complete high school. The suicide rate for Indians is nearly double that for all Americans, and alcoholism is six times more prevalent among Indians than other Americans, according to the Indian Health Service.

Tribal gaming has greatly reduced these indicators of extreme suffering for tribes in many different regions of the country. All this has been accomplished at virtually no cost to taxpayers, as tribes use gaming revenues to build their own health clinics, finance education for their members and provide other vital public services. Because Indian tribes are federally-recognized governments, and the Indian Gaming Regulatory Act requires that tribal gaming revenues be used for public purposes, the whole region and whole country (and the federal deficit) benefits when Indian poverty is reduced.

We do strongly object to one part of the bill. The Nation opposes the requirement that the Commission study "whether Indian gaming should be regulated by States instead of the Federal Government," Section 4(a)(2)(H). The sovereign authority of Indian nations over persons and conduct within tribal territory, and the relationship between Indian tribes and the United States, as well as the tribes' relationship with the states are matters long controlled by federal law, and should not be subjected to re-examination in a study of gaming policy any more than should the states' relationship with the United States.

The existence of the Ho-Chunk Nation as a sovereign entity long predates the formation of the United States, and has been recognized from the first days of the Republic. Tribal sovereignty was recognized by the founding fathers when they drafted the Constitution, and has been reaffirmed by legal decisions beginning with the Supreme Court's historic Cherokee decisions in the early 1800s and continuing to the present day. This policy and the many Supreme Court decisions affirming tribal sovereignty recognize Indian tribes as self-governing societies, protected from state regulation by federal law so they can make their own laws and be ruled by them. The doctrine as it applies to Indian gaming was addressed by the Supreme Court in California v. Cabazon Band of Indians, 480 U.S. 202 (1987) and by Congress when it passed the Indian Gaming Regulatory Act of 1988 Pub. L. No. 100-497, 102 Stat. 2467 (codified in 25 U.S.C. § 2701 et seq.) A federal factfinding commission, such as that proposed by H.R. 497, should not now be delegated responsibility for re-examining this settled area of federal law. We therefore propose that Section 4(a)(2)(H) be deleted from H.R. 497.

Finally, we are concerned that H.R. 497 provides for the membership of the Commission to include one state governor, but does not provide for any tribal representation in Section 3(a). While Indian gaming makes up only a small percentage of gaming conducted nationwide, there are significant conflicts between states and tribes over the regulation and conduct of Indian gaming. Moreover, Indian gaming is different in many respects from that conducted by states and private enterprises. Moreover, as currently drafted, H.R. 497 would mandate the Commission to make recommendations that would have a significant impact on Indian gaming without providing any role for a tribal representative. The perspective, expertise, and experience of Indian tribes should be represented on the Commission both as a matter of fairness and to insure a balanced study of the field. Therefore, we would suggest that Section 3(a) be amended to require that one of the Commission members be a tribal leader.

Conclusion

The Ho-Chunk Nation is concerned about the negative effects of gaming and is committed to minimizing such impacts in the community of which we are a part and among our patrons. However, the Nation does not feel that H.R. 497 properly addresses these concerns. Rather than mandating that the Commission study and weigh the relative costs and benefits of gaming -- which would more effectively address the concerns the bill is directed at -- the bill favors findings that are biased against gaming. In addition, the Nation strongly opposes Section 4(a)(2)(H) as it would improperly give the Commission the mandate to study the nature of the relationship between federal, tribal, and state governments, which is beyond the authority and expertise of such a commission. Finally, we urge that Section 3 be amended to require one tribal representative on the Commission as well as a state representative.

APPENDIX 8.—STATEMENT OF MELANIE BENJAMIN, ON BEHALF OF CHIEF EXECUTIVE MARGE ANDERSON AND THE MILLE LACS BAND OF OJIBWE

Mr. Chairman, Mr. Vice Chairman, thank you very much for allowing the Mille Lacs Band of Ojibwe this opportunity. You are known in Indian country as fair men with open minds and a deep concern for our People. And so I make these remarks to you and your colleagues in the spirit of real respect and great friendship.

My name is Melanie Benjamin, and I am speaking for Chief Executive Marge Anderson and the Mille Lacs Band of Ojibwe. I'm here today because Washington needs to understand what's really at issue and at stake. You've heard from Donald Trump's allies. You've heard from those who, for their own profit or political purpose, want America to turn its back on the First Americans. To break yet another promise. A promise called IGRA that has helped give Indian people – our mothers and fathers, our sons and daughters, our respected grandmothers and grandfathers – the first taste of the self-determination that leads to what some call "the American Dream."

I'm talking about real people with real American dreams.

People like Molly Big Bear, a former welfare mother who now helps coordinate guest services at our Band's Grand Casinos. Molly has just proudly and successfully completed a prestigious statewide leadership program.

People like Monica Kegg, who recently graduated from our Band's modern new high school. Monica is an Academic Olympics Team member who admits she would have dropped out of school long ago if she were forced to run the gauntlet of prejudice in the public school system.

People like Robert Mitchell, a talented and hardworking man other employers passed over again and again until he came to work for the Grand Casinos. Today, Robert has fulfilled his promise to his wife – that someday they would own a home where they could raise their children. Imagine his pride, and the pride of his wife. Think about the powerful example he has set for his children.

And people like Richard Johnson, an ordinary Minnesotan who lost his job after a serious car accident. Richard applied for nearly 130 jobs, but the only place that would give this non-Indian a chance to work again was our Band's Grand Casinos. "When I was offered the job," he says, "I was excited because I was given a chance to succeed." Richard is getting much more than a paycheck from the Grand Casinos – he says he's regained the pride and confidence he lost in his accident.

These people – Molly, Monica, Robert, Richard and thousands more like them – are what this hearing is about, Senators. Not amendments. Not legal maneuvering. Not fatter, more outrageous profits for multi-millionaires who take so much and give back nothing.

In my written testimony, I've described in detail the over $20 million dollars the Mille Lacs Band has given back to Indian families and others in our community. I wish I had time to show you those pictures. I wish I could lift you up and fly you to our reservation for the five dollar tour. I wish I could show you how we've put our money where our mouths are.

"Education" is a nice word. But you should see our two new schools. You should see the faces of those proud students and parents. You should see those report cards!

"Health care" is a nice word. But it would mean so much more if you could see our new hospital-sized clinic. The care people receive. Their joy in returning, healthy, to their families and their jobs.

"Housing" is a nice word. But I wish you could actually visit the 70 new homes we have built where so many families now live in warmth and comfort and dignity.

"Infrastructure" is a nice word, too. And thanks to Indian gaming, it means a water tower, new sewage systems, safe water and a clean lake, and paved roads for the first time. Roads that really lead somewhere now!

There is so much more to show you and tell you. But for now, I thank you for understanding that you hold in your hands the livelihoods, the dignity, and the dreams of a proud People. And I thank you for your time and attention today, and for your concern and wisdom always.

II. Written Testimony Of Melanie Benjamin

A. SUMMARY

The Indian Gaming Regulatory Act (IGRA) has received a great deal of attention since its passage in 1988. Members of Congress have heard people make all sorts of statements about the Indian gaming industry. You have heard people claim that organized crime is infiltrating Indian casinos, but you know these statements are not true. You have heard people claim that Indian tribes and bands are squandering their casino revenues, but you know these statements are not true.

The Mille Lacs Band of Ojibwe has also heard these statements and many more that are just as untrue. We have fought on both the state and the national level to ensure that the facts about Indian gaming are known. That is why we are submitting this testimony for the record. The testimony is organized into three sections:

- "The Mille Lacs Band of Ojibwe" provides a comprehensive overview of the Band's history, the economic impact of the Band's Grand Casinos, and the economic development the Band is pursuing with its casino revenues. This section details how casino gaming has proven to be an extraordinarily effective tool for economic revitalization that has allowed the Band to invest over $20 million in new schools, homes, roads, medical facilities and other projects for its People and its neighbors. Equally important, this section explains how the Grand Casinos have triggered an economic boom for the entire region, including the creation of nearly 5,000 new jobs, 55 new businesses, and millions of dollars of new spending and capital investment.

- "A Sovereign Nation Based On A Separation Of Powers" outlines how the Mille Lacs Band's tribal government – like the United States federal government – is based on an American Indian leadership model consisting of three separate branches that ensure proper checks and balances.

- "Answers To Commonly Asked Questions" provides brief, bullet-pointed information about how the Mille Lacs Band is using its casinos revenues, who else is benefiting from the Band's Grand Casinos, the kinds of tax payments made by Indian casinos, and the concept of Indian sovereignty.

B. THE MILLE LACS BAND OF OJIBWE

INTRODUCTION

The Mille Lacs Band of Ojibwe is in the midst of a period of enormous change. After decades of struggle, the Band has acquired the resources to profoundly transform the lives of its members and the lives of its neighbors.

During the last five years, there has been tremendous progress toward rebuilding, restoring and renewing the Band's homelands and heritage. The Band has received national acclaim for the unique solutions it has found to redress long-standing problems. People are intensely interested in the Band's the achievements and its goals for the future.

A PROUD HISTORY

Members of the Mille Lacs Band of Ojibwe Indians are citizens of a self-governing tribal sovereign nation based at the Mille Lacs Indian Reservation, located in the state of Minnesota.

The headquarters of the Mille Lacs Band tribal government is situated about 100 miles north of Minneapolis/St. Paul, and the whole of the reservation consists of three geographical districts: District I, which includes the headquarters of government and other lands near Mille Lacs Lake and the town of Onamia; District II, which is commonly called East Lake and is associated with communities such as McGregor and Isle; and District III, the Lake Lena Community, which is near the town of Hinckley. Together, these three districts encompass about 10,000 acres scattered within Minnesota's Aitkin, Pine, Crow Wing, Morrison, and Mille Lacs Counties.

At present, the Mille Lacs Band includes 2,801 enrolled members. Forty-one and a half percent are age 21 or younger, 49 percent are between the ages of 22 and 54, and 9.5 percent are Tribal Elders age 55 and older. About 1,200 of enrolled members live within the reservation: 60 percent of them in District I, 18 percent in District II, and 22 percent in District III.

The Mille Lacs Band is a member of the Minnesota Chippewa Tribe, a political consortium of six independent Bands of Ojibwe Peoples located in Central and Northern parts of the state, organized to work together toward achieving common goals and solving common problems. The Mille Lacs Band also shares kinship with other Ojibwe Bands in Wisconsin, Michigan and Canada, along with cultural ties to many other tribal Peoples throughout North America.

Like other Ojibwe living elsewhere, Mille Lacs Band members are Woodland People whose homelands are traditionally located near the lakes and rivers of the great Northern forests. The Mille Lacs Band of Ojibwe are descendants of Peoples in the Algonquian Language Group who originated on the East Coast of North America. How the Band arrived in Minnesota – and the things that have happened to them since they got there – are important factors in understanding their position today.

Ancient Traditions

According to oral tradition, ancestors of today's Ojibwe began migrating West from lands near the Atlantic Ocean about 500 years ago. Along the way, they established several long-term settlements in places where present-day Montreal, Detroit and Sault Sainte Marie are located, but continued moving gradually toward the interior of the continent for about two centuries. In the late 1600s, the Ojibwe ancestors split into two groups: one group moved north into Canada, and the larger group – which included those who would eventually settle near Mille Lacs Lake – moved along the south shore of Lake Superior into northern sections of what is now Wisconsin, Minnesota and the upper peninsula of Michigan.

By the mid-1700s, the Ojibwe ancestors had established themselves in the region around Mille Lacs Lake and built the distinct culture which is still preserved today. They supported themselves by hunting deer, bear, moose, waterfowl and small game; fishing the waters of Mille Lacs Lake and other lakes and streams; gathering wild rice, maple sugar and berries; and cultivating various food plants. But it wasn't long before the self-sufficient way of life the Ojibwe had carved out for themselves began to be affected by a new presence in their homelands – that of Europeans.

Nearly Destroyed

French fur traders were the first non-Indians to come in contact with the Mille Lacs Ojibwe. The two groups exchanged animal skins, meat, fish, wild rice, maple sugar, birch bark canoes, and other native items for European manufactured goods including guns, brass pots, beads, and utensils. The business relationships between the Ojibwe and the fur traders were not always equitable, and the French were soon followed other Europeans – including explorers, soldiers, entrepreneurs, lumbermen, land developers, settlers and politicians – who wanted much more than furs. These people were after the land and natural resources of the Ojibwe, and in the 1840s they began negotiating what they wanted by treaty. Over the next several decades, the white society which was taking hold in Minnesota managed to acquire more and more land. The Mille Lacs Band dealt with these changes, and maintained a presence throughout their homeland.

During the Dakota War of 1862, Ojibwe warriors helped the federal government defend U.S. Army post Fort Ripley from attack by neighboring tribes. For this, it was recognized through treaty that Mille Lacs People should never be removed from their lands; hence, they were called the non-removable Mille Lacs Band of Ojibwe.

Unfortunately, this treaty was almost immediately violated, and the lumbermen and developers continued to take over the Band's homeland. By the end of the nineteenth century, only a few hundred Band members remained on the remnants of the Mille Lacs Reservation. On top of this, the federal government had been taking steps to overwhelm American Indian society and force Native Peoples to join the Euro-American society. The Ojibwe religion was banned, the teaching of Ojibwe language and culture was all but forbidden, rights of self government were virtually taken away, and the traditional means of making a living was made practically impossible. Even after the great land-grabs and removal efforts had ceased, the damage had been done. Little was left for the Mille Lacs Band but decades of poverty, powerlessness and despair.

Sustained by Strong Leaders

Self-sufficiency and self-determination are the two most important objectives of any sovereign nation. That's why the Mille Lacs Band has fought for the right to establish its own form of government, its own types of government departments, and its own laws and judicial system. The Mille Lacs Band is fully aware that only by governing itself will it truly be able to determine its own future.

After white society destroyed the hunting/fishing/gathering economy that had sustained the Mille Lacs Band for centuries, Band members struggled for generations to find a niche in the new economic system that had been imposed by outside forces. They sought economic development for the Mille Lacs Reservation through a number of tribal-owned businesses, none of which was able to succeed in the region's economically-depressed marketplace, despite the hard work of Band members and the best intentions of financial backers. The result was long-term economic stagnation on the reservation, manifested by a 40 percent unemployment rate, a crumbling local infrastructure, and a cycle of poverty which ground away at the hope of a better future for the children.

Fortunately, strong Mille Lacs Band leaders – like Sam Yankee in the 1960s and Arthur Gahbow in the 1970s and 80s – worked tirelessly to reverse the effects of 150 years of abuse and neglect. Slowly, inroads were made toward the ultimate goal: regaining control of the Band's destiny.

Finally, in the late 1980s, Tribal Chairman Arthur Gahbow tried a new method to pursue the economic development and prosperity which had eluded the Mille Lacs Reservation for so long. Inspired by passage of the federal government's Indian Gaming Regulatory Act (IGRA) in 1988, which acknowledged the right of American Indians to make gaming compacts with the states where their reservations are located, Gahbow led the way into a new tribal enterprise – casino gaming.

TURNING POINT: ESTABLISHMENT OF THE GRAND CASINOS

In 1990, Gahbow and the Mille Lacs Band's tribal government approved the financial backing necessary to invest $3 million in refurbishing a former electronics plant that stood on District I of the reservation. The old building was converted to an 18,000 square foot casino featuring a modest number of slot machines and blackjack tables. At first, it was estimated that the gaming business would be a fairly small-scale success and create just enough in jobs and revenue to give the reservation economy a boost. But the casino took off from the very first day the doors opened, and before long, it employed more than 400 people, was bringing in almost 3,000 players a day, and was making an impact felt far beyond the Mille Lacs Reservation by growing the economy of the entire region

In all of this, the Mille Lacs Band was assisted by Grand Casinos, Inc., a casino management firm, which helped operate the business and plan and finance expansion of tribal casino operations. Working with Grand Casinos, Inc., the Mille Lacs Band's tribal government forged business plans that called for adding 106,000 square feet to the Mille Lacs facility and eventually building a separate gaming/entertainment complex in the Lake Lena (Hinckley) district. Once these plans were finalized, a series of massive construction projects was undertaken, culminating with the opening of the new Grand Casino Mille Lacs facility on April 5, 1991, followed by Opening Day at Grand Casino Hinckley on May 15, 1992.

In the very short time that has elapsed since then, Grand Casino Mille Lacs and Grand Casino Hinckley have become two of the Midwest's finest and most successful entertainment businesses. As a result, casino revenues have allowed the Mille Lacs Band to continue the challenging tasks of re-establishing a cultural identity, returning to economic self-sufficiency and rebuilding the reservation. The Band is still a long way from completing those tasks – a century-and-a-half of abuse and neglect cannot be reversed in a few short years. But the Grand Casinos have provided an excellent start and placed the Band in an exciting new role: becoming the driving force behind bringing prosperity to everyone in the entire region.

REINVIGORATING THE REGION

The areas of Minnesota which surround the Mille Lacs Reservation were once dominated by slow, seasonally driven economies and marginal economic development. But the success of the Grand Casinos has reinvigorated regional economies by creating hundreds of new jobs, generating millions of dollars in new tax revenues, reducing local dependence on government assistance, pumping in vast sums of new money, and fostering an improved business climate which has produced enormous opportunities for both existing businesses and new business development.

More Jobs

When the Mille Lacs Band's first casino opened in 1991, it was anticipated that it would create 450 new jobs. Four years later, with two successful gaming businesses in operation, the Grand Casinos directly employ over 2,200 people – nearly five times the number originally projected. Unemployment on the Mille Lacs Reservation has subsequently fallen from 40 percent to a level comparable with the national average. But even so, 80 percent of Grand Casino jobs are held by non-Indians – neighbors of the reservation who share the need for full-time, stable employment with good wages and benefits. Since 1991, the Grand Casino payroll has pumped over $92 million into regional economies.

The gaming businesses have also stimulated the creation of jobs outside of the casinos by fostering conditions which allow local employers to expand their workforces. The casinos accomplish this by purchasing enormous amounts of goods and services from local companies, and by attracting millions of visitors who bring new money to spend with local retailers, restaurants, hotels/resorts, personal service providers, gas stations, hospitality businesses, and others. In fact, neighboring businesses have hired 2,400 additional employees to keep up with the increased demand, creating a wide range of new job opportunities outside of the casinos.

More Tax Revenue

New jobs related to casino businesses have fueled a dramatic increase in the amount of tax revenues generated locally for both the federal and state government. Employee wages paid by the Grand Casinos alone have generated almost $21 million in federal taxes and over $5 million in state taxes since 1991. Meanwhile, millions more in tax revenues have become available through the creation of new non-casino jobs and businesses which wouldn't exist without the robust economic environment the gaming enterprises have made possible. The addition of the Grand Casino properties has helped to drive up the value of neighboring properties – a fact which has contributed significantly to tax base growth in many towns and cities. For example, the city of Hinckley reports growth in its tax base of 51 percent since Grand Casino came to town, and municipal officials expect further increases in the future.

But the casinos don't just generate tax revenues – they actually help the Mille Lacs Band to save taxpayers' money. The Band's tribal government taxes their own Grand Casinos profits 100 percent and then uses that money to fund many public works projects which benefit the reservation and the surrounding communities. These projects have included new roads, medical facilities, and an improved water sanitation system. In this manner, the Mille Lacs Band has already spent almost $13 million of their own money for public buildings, $4.1 million more for roads and utilities, and $4.7 million for housing – without state or federal taxpayer funds.

Decreased Government Assistance

The Grand Casinos have also contributed indirectly to taxpayer savings by helping to decrease the local population's dependence on government assistance. Because more good jobs are now available in the region thanks to gaming businesses, the number of people in Aitkin, Pine, Morrison and Mille Lacs Counties who rely on help from programs like Aid to Families with Dependent Children has decreased. In fact, the Minnesota state government estimates that it's saving as much as $7 million a year in welfare costs statewide because of casino jobs.

And while such statistics take in both Indians and non-Indians, it should be noted that Mille Lacs Band members have particularly reduced their dependence on government assistance – where most of the families on the Mille Lacs Reservation once lived below the federal poverty line, many have seen their income increase dramatically thanks to Grand Casino opportunities.

Pumping New Money Into Local Economies

Construction

The building and expansion of the Grand Casinos has created a $30 million construction boom for local contractors, excavators, building materials dealers, carpenters, plumbers, electricians, and other tradespeople. Millions of dollars more have been pumped into local economies through the region's construction industry as other businesses – ranging from fast-food restaurants to hotels to convenience stores – have been built or expanded to take advantage of increased consumer traffic associated with the casinos. In addition, the recent rebuilding of the Mille Lacs Reservation has injected another $22 million into the local construction industry while creating jobs for over 150 Band members and other Indian tradespeople.

Casino Spending On Goods and Services

The Grand Casinos are excellent customers for other local businesses. Since 1991, the Mille Lacs Band's gaming enterprises have purchased over $15 million worth of goods and services from neighboring businesses, which has helped them expand their operations and hire new workers. Many food, beverage, paper products, and institutional supplies distributors have said that servicing the Grand Casinos has stimulated a remarkable increase in their annual business. For example, the Onamia Bakery has sometimes had to temporarily close its retail operations in order to catch up with the high demands of its contract for supplying baked goods to Grand Casino Mille Lacs.

Increased Consumer Traffic

The Grand Casinos bring five million visitors to the region every year, 15 percent of them from outside of Minnesota. These visitors are avid consumers who bring significant amounts of money to spend, adding millions of dollars to local economies. The fact that the casinos are open throughout the year has kept increases in consumer traffic steady during months when the region formerly suffered due to the highly seasonal nature of its pre-casino business base. Local hotel occupancy rates are up since the Grand Casinos opened, and virtually every other type of local business which depends on a constant influx of customers reports similar increases in activity.

Besides attracting millions of potential consumers to the region simply by promoting gaming enterprises, the casinos also keep money flowing locally by actively helping their neighbors market goods and services to casino customers. The Area Relations Department at each of the Grand Casinos assists neighboring companies and organizations in harnessing the visibility and drawing-power of the gaming operations. In addition to sharing marketing expertise and promotional opportunities, the casinos also create partnerships that pass Grand Casino patrons along to other businesses.

New Businesses

To date, 55 new local businesses have opened as a direct result of increased demand and opportunities created by Grand Casino Mille Lacs and Grand Casino Hinckley. Some of these include 10 restaurants, seven hotels, three gas stations, two convenience stores, an amphitheater, an RV park, an 18-hole golf course, an outlet mall, and an auto parts store.

Charitable Donations

A portion of proceeds from the Grand Casinos are fed directly back into the region through charitable donations to law enforcement agencies, hospitals, food shelves, and other organizations or projects which serve the entire community. So far, Grand Casinos have given nearly $500,000 in donations.

REBUILDING THE RESERVATION

Unlike some other Indian tribes or bands that distribute the money they earn from casinos directly to tribal members, Mille Lacs Band members decided to have their tribal government spend casino revenues on projects that would benefit the entire Band and the surrounding community.

While building local business and economic development is an important goal that has been accomplished by the casinos, it's just part of the picture. The purpose of creating a successful gaming enterprise was to develop a tool that would provide the resources needed to strengthen basic Ojibwe traditions.

Central to Ojibwe culture is the concept of community – people living and working together with an emphasis on harmony and a shared sense of place. But while the Ojibwe spiritual concept of community has endured for centuries, the physical community was neglected for decades. With the opening of the Grand Casinos, the Mille Lacs Band has developed the economic power necessary to restore their community without dependence on others. So, in response to a mandate from Band members, casino revenues have been funneled into projects and services around the reservation and beyond which will accommodate the current and future needs of the Band.

Income from the Grand Casinos is used to fund and support tribal public buildings and facilities, education system, health programs, housing and infrastructure projects, legal system, law enforcement, natural resources management, social programs, tribal government administration, business development, long-term savings, and other programs. The Mille Lacs Band is particularly proud of the fact that it was the first Indian tribe or band in the United States to use casino revenues to back community development bonds, which have raised over $20 million for building schools, medical facilities, housing, roads, and utilities.

As the following section will demonstrate, progress in rebuilding the reservation has been very encouraging, but it's not nearly complete. The Mille Lacs Band must be allowed to continue developing and expanding its economic base while solidifying its position as a sovereign nation in order to complete the work it has begun.

Public Buildings and Facilities

Mille Lacs and Lake Lena Ceremonial Buildings

Structures intended for communal use on the Mille Lacs Reservation have been inadequate – and in some cases non-existent – for many years. A particularly sad example of that situation was the fact that there had not been a reservation building designed specifically for use in Ojibwe spiritual ceremonies since the 1940s. Continuing the practice of spiritual ceremonies is vital to preserving the Mille Lacs Band's culture and sense of community, so when income from the Grand Casinos made it possible, the first item on the agenda was to construct new ceremonial buildings at Mille Lacs and Lake Lena.

The beautiful new buildings were designed around the circular "gathering space" concept that is so important in Ojibwe culture and which dominates communal activities. Wood was used as the primary building material, both because of its traditional role in Ojibwe structures and because it enhances the aesthetic blend between the buildings and the woodlands which surround them. The design of the buildings preserves the natural features of the land and reflects the strong relationship between the Mille Lacs Band and the elements of its environment.

Powwow Grounds

Ceremonial powwows play an important role in the spiritual, cultural and social life of American Indians, providing opportunities to participate in singing and dancing, to hear the words of Elders and leaders, to enjoy traditional foods and activities, and to gather with family and friends. Because powwows are so significant to the preservation of traditions, Grand Casino income was used to build and landscape a powwow grounds site on the shores of Mille Lacs Lake. The new powwow grounds feature a ceremonial meeting circle surrounded by bleacher-style seating, picnic tables, and plenty of room for outdoor activities, along with a camping area with RV hook-ups to accommodate those who come from all over the United States and Canada to participate in the Mille Lacs Band's ceremonial gatherings.

East Lake and Lake Lena Community Centers

Community life is an essential element of Ojibwe culture, so the Mille Lacs Band is investing Grand Casino money in the building of a modern community center to serve the East Lake District of the reservation, and another for use by the people of the Lake Lena District. Currently under construction, the new East Lake and Lake Lena community centers will each be the hub of community life in their district. Each center will feature convenient access to tribal government as well as health and human services while providing space for social, ceremonial and spiritual activities.

Shaw Bash Kung Elderly Center

In 1994, Grand Casino dollars were used to renovate an existing reservation building and create the Shaw Bash Kung Elderly Center. Named for the great Mille Lacs Band Chief who led his people during the mid-nineteenth century, the new center offers Elders the opportunity to participate in a variety of activities, such as basket and blanket socials, garage sales, bingo, a sewing club, and a card night. The center also serves Elders a nutritious noon meal free of charge every weekday. The Band has a van to transport Elders who have difficulty traveling to the center on their own.

Mille Lacs Indian Museum

Since 1960, the Mille Lacs Band has supported the Minnesota Historical Society in its operation of the Mille Lacs Indian Museum to educate and inform visitors about the history of the Mille Lacs Ojibwe. The museum was closed in 1992 to make way for a new building four times its size, which is scheduled to open in 1996. The new Mille Lacs Indian Museum will feature exhibits on traditional and contemporary Mille Lacs culture. Visitors to the crafts training and demonstration room will be able to talk with Mille Lacs craftspeople as they work on baskets, beadwork and other traditional Indian art forms. Outside the crafts room, an outdoor program space will be used for demonstrations of maple sugar processing, wild rice harvesting, canoe construction, and other traditional skills. Seminars and lectures will also be offered throughout the year. The museum is a popular destination for Mille Lacs tourists and area schoolchildren, and it is expected to welcome 12,000 visitors a year when the new building opens.

Education System

Nay Ah Shing Schools

For decades, Mille Lacs People had no choice but to send Mille Lacs Band children to public schools that ignored their heritage and exposed them to racial prejudices. Sadly, the result was low self-esteem and a high drop-out rate among Mille Lacs students. In the 1970s, the Band made the first efforts to reverse this situation by establishing the original Nay Ah Shing school on the Mille Lacs Reservation. Unfortunately, limited funds for the school's facilities, staff, books and equipment prevented the tribal education system from being everything the tribe wanted it to be for the children.

But municipal bonds funded by Grand Casino income provided $6.7 million to build and equip the all-new Nay Ah Shing Lower School (serving Band children from pre-school age to third grade) and Nay Ah Shing Upper School (for students in grades four through 12), which opened in time for the 1993-94 school year. In addition to spacious and functional modern classrooms, the Nay Ah Shing Schools feature a computer room, an art room, an improved library, and gymnasiums. These facilities accommodate a comprehensive curriculum which promotes excellence in academic subjects such as mathematics and science, combined with Ojibwe cultural, history and language studies that are unavailable in the public schools. The goal of this curriculum – and of the Band's entire educational system – is to prepare students to compete in higher education and the workplace, while helping them to maintain their unique cultural identity as Native Peoples.

Other services provided through the Nay Ah Shing Schools include free breakfast and lunch for all K-12, child care, and Head Start students, and free transportation to school for all children enrolled, no matter where they live.

Day Care and Head Start

Thanks in part to dollars generated by the Grand Casinos, the Nay Ah Shing Lower School is able to operate a day care center that offers audited, professional supervision for children age six weeks and older. The reasonably-priced day care services are open to both Band members and non-Band members, and are available on weekdays and weekends.

Grand Casino revenues also provided the resources necessary to allow Mille Lacs Chief Executive Marge Anderson to lead a federal legislative effort that improved the Indian Head Start Program on the Mille Lacs Reservation and for American Indians all over the country. Because of Chief Anderson's work in this area, residency and income guidelines have been modified so that the Indian Head Start Program offered at Nay-Ah-Shing Lower School – which is designed to prepare the youngest students for elementary education – can now serve greater numbers of Band children.

College Scholarships and Internships

One of the most important investments made with money from Grand Casino profits is in a scholarship fund for higher education. This scholarship program was created so that any Mille Lacs Band member who wishes to pursue a college, technical college, or university education can afford to do so. By providing this type of opportunity, the Band is making it possible for each of member to fully develop his or her own potential and then return to the reservation and share that potential with other Band members – by serving as teachers in the schools, managers in the businesses, doctors in the medical facilities, and more.

Meanwhile, for those students who need practical experience in addition to higher education, Grand Casino income helps support the tribal government's efforts to arrange internships for Mille Lacs Band college students in the field of each individual's choice.

Executive Development Program

Thanks to the partnership with Grand Casinos, Inc., Band members employed by the Grand Casinos have access to the Executive Development Program. The program hand-picks Band members who show exceptional interest and potential in the gaming industry and pays them to attend college so they can obtain the education needed for moving into management-level positions within the casinos.

Health Programs

Not long ago, doctors were only available on the Mille Lacs Reservation half of the week, so sick children and Elders often had to travel long distances if they needed medical attention beyond routine care. As a result, many Mille Lacs Band members simply went without health care.

But recently, Grand Casino income backed community development bonds which provided over $2 million to build the new Ne-Ia-Shing Clinic – a state-of-the-art comprehensive health facility located in District I of the Mille Lacs Reservation. Ne-Ia-Shing features six examining rooms, a three-chair dental office, a treatment room for routine surgeries, a high-tech laboratory, audiology and optometry programs, a modern x-ray department, a full-service pharmacy, and chemical dependency/social service facilities. The clinic is staffed by five family practice physicians and three physician assistants, a dentist and dental assistant, a registered nurse, an LPN, chemical dependency counselors, a social worker, an x-ray/lab technician, and medical records professionals. In addition, an internist, a general surgeon, and an orthopedic surgeon are also regularly scheduled to serve Ne-Ia-Shing patients.

The Ne-Ia-Shing Clinic is operated as a non-profit business serving both Indians and non-Indians. The clinic is expected to accommodate between 10,000 and 12,000 patient visits each year, 15 percent of them from non-Indians.

While the Ne-Ia-Shing Clinic is designed to serve people from all districts of the reservation and throughout the surrounding area, the Band is also considering using Grand Casino dollars to build another health facility in District III. In February 1994, the Band signed a letter of intent with the University of Minnesota Health System (UMHS) to consider a joint venture that would construct a new full-service medical clinic in the Lake Lena Community near Hinckley. According to the terms of the letter, the Band would purchase the necessary land and equipment and build the clinic, then lease the facility and equipment to UMHS, which would staff and manage the facility.

Housing Projects

Revenues from Grand Casinos help fund the Mille Lacs Band Housing Authority so that affordable, attractive, safe and comfortable housing will eventually be a fact of life for everyone on the Mille Lacs Reservation. Since the casinos opened, the Band has spent $4.7 million building 70 new single-family homes and renovating existing homes.

The Housing Authority has created a mortgage program that allows qualified Band members to purchase a new home. In addition, the Housing Authority gives Band members access to many programs offered by the federal government's Department of Housing and Urban Development, including the Mutual Help Program, which assists people with funding to build their own homes, and a rental program for those with lower incomes. The Housing Authority also runs a Maintenance Department to assist Band Elders, people with disabilities, and those who live in Band-owned rental units with plumbing, heating, electrical, large appliance, septic system problems, and minor structural work.

Happily, the Band's new-found ability to make decent homes available is encouraging Mille Lacs Band families to move back to the reservation. As children are being reunited with their aunts and uncles, cousins and grandparents, the reservation community is becoming larger and stronger once again.

Infrastructure Projects

Realizing that redevelopment of the Mille Lacs Reservation can't go very far without adequate utilities and roads, the Mille Lacs Band has committed Grand Casino revenues to bringing the basic infrastructure up-to-date. The Band obtained a $4.3 million loan from the Farmers' Home Administration to provide the funding necessary for infrastructure improvements. This loan will be repaid with Grand Casino revenues.

As part of this effort, a new 200,000-gallon water tower was built in 1993 to service reservation homes, public facilities, and Grand Casino Mille Lacs. The Band has also built a new waste-water treatment plant, and improved the reservation sewer system. Extensive work has been done to repair and rebuild roads on the Mille Lacs Reservation, and the Band has invested in snow removal equipment and other vehicles in order to keep reservation roads properly maintained. So far, the use Mille Lacs Band resources to begin the massive task of restoring its long-neglected infrastructure has saved the federal government over $4 million.

To date, these Mille Lacs Band public works construction projects have been funded directly or indirectly through revenues from the Grand Casinos:

Project	Location	Cost	Completion Date
Ceremonial Building	Mille Lacs	$ 540,000	Completed
Ceremonial Building	Lake Lena	430,000	Completed
Powwow Grounds	Mille Lacs	230,000	Completed
Clinic	Mille Lacs	2,100,000	Completed
Upper School	Mille Lacs	3,700,000	Completed
Lower School	Mille Lacs	3,000,000	Completed
Water Treatment Plant	Mille Lacs	600,000	Completed
Water Tower	Mille Lacs	370,000	Completed
Wastewater Treatment	Mille Lacs	1,600,000	Completed
Housing	Entire Reservation	4,700,000	Completed
Roads and Utilities	Entire Reservation	1,600,000	Ongoing
Community Center	East Lake	1,500,000	Summer 1995
Community Center	Lake Lena	1,500,000	Fall 1995
TOTAL		$21,870,000*	

*Not included in this figure are a proposed Government Center and a proposed Community Center in Mille Lacs.

Natural Resources Management

The Mille Lacs Band's Department of Natural Resources administers programs that manage and protect the environment, wildlife and natural resources within the Mille Lacs Reservation. In 1995, the Band will use Grand Casino revenues and federal revenues to develop and implement the following efforts:

- An on-going diagnostic water quality study of Mille Lacs Lake to establish standards which will help preserve the lake for future generations;
- A continuing inventory of the lakes, rivers and streams within the reservation and its trust lands;
- Study and protection of the wetlands which cover about one-third of the reservation and play a crucial role in preserving wildlife while balancing the local ecosystem;
- Study and reduction of air, water and soil pollutants that cannot be traced to any particular source;

- Control of the contamination of the region's ground water caused by underground injection wells; and
- Adding lands to the reservation.

Law Enforcement

The Mille Lacs Band has established, staffed and equipped a full-time tribal police department. This department is fully funded through Band taxes and casino revenues. In an arrangement unique in Minnesota and also nationally, the tribal police force is authorized to enforce laws against all people who commit crimes on the reservation, including non-Indians. In addition, a mutual aid agreement between the tribal police department and the Mille Lacs County Sheriff's Department authorizes tribal officers to enforce state law on lands outside of the reservation, and to use the facilities of the Mille Lacs County Jail.

Long-Term Savings

In order to help assure a bright future for Mille Lacs Band members – particularly Elders and children – the Band has invested in various long-term savings instruments, all of which have been designed to keep its money working for years to come. In 1995, the Band will add another $1 million to these funds.

Business Development

The successful gaming enterprises have helped the Mille Lacs Band come a long way in rebuilding the reservation, but there is still have a long way to go, and the Band is not willing to bet that a reservation economy based solely on the Grand Casinos will ensure that all objectives will be met. That's why the Band has invested in feasibility studies aimed at identifying other industries which could succeed on the reservation, with the goal of broadening its business base beyond gaming. The Mille Lacs Band has also established a Corporate Commission, made up of Mille Lacs government officials and top executives from many of Minnesota's leading corporations, to further advance the objective of significantly diversifying the economy within the next five years.

Tribal Government Administration

Income from the Grand Casinos is allocated for tribal government projects and programs. By using the money in this manner, the Band has greatly reduced its dependence on county, state and federal agencies, which has strengthened its ability to determine its own destiny in these important matters

Casino revenues have also helped fund an increase in the services which the tribal government can provide, so the objectives and policies of tribal government are carried out more efficiently, and with less reliance on outside assistance. This expansion of services has also created new job opportunities for Band members.

Perhaps most importantly, the progress and prestige gained through the success of the casino businesses has made Band members more aware of tribal government, and more inclined to participate in it. Young people are taking an increased interest in the government process, in Band affairs, and in becoming future leaders. Casino revenues also help provide internship and educational opportunities to reinforce their interest.

THERE IS STILL PROGRESS TO BE MADE

Comparing the progress on the Mille Lacs Reservation today with the situation just five years ago, it's easy to see that the successes of the Grand Casinos, combined with redoubled efforts to pursue self-determination through self-governance of its sovereign nation – have helped the Mille Lacs Band come a long way in reversing the effects of poverty, powerlessness and despair that have shadowed American Indian People for so long.

But while progress has been made, there is still so much that needs to be done. Family and individual income levels on the reservation are still well below the national average. Many of the Elders still live in sub-standard houses and go without proper nutrition and medical care. Children still need more care for their basic needs, more books and teachers in their schools, more opportunities in their lives, more security in their future. And all American Indians still face racism and those who would stand in the way of self-determination and economic development for reasons of greed, envy or ignorance.

That is why it is important for the Mille Lacs Band to keep its casino revenues working for the good of the its people and its neighbors, to maintain and diversify its gaming enterprises, and to grow as a successful nation free from dependence on – or domination by – other governments. The Mille Lacs Band is determined to persevere in moving toward the future, and it is dedicated to the preservation of both its identity as an Ojibwe nation and its role as a member of the larger American society.

C. A SOVEREIGN NATION BASED ON A SEPARATION OF POWERS

The purpose of the Mille Lacs Band's tribal government is to promote the general welfare of tribal citizens by establishing duties, responsibilities and procedures for the conduct of domestic and external affairs. For many years, tribal government operated under a single-agency form of government known as the Reservation Business Committee (RBC). However, the Band determined that a separation of powers, similar to that employed by the United States federal government – which was actually modeled after an American Indian leadership structure – would be a more effective and responsible way to run the reservation.

Separation of powers is really power sharing between branches of government. The three branches of tribal government – legislative, executive and judicial – ensures through proper checks and balances that no entity of government has absolute and arbitrary power in any particular area. Each branch was created by an official Band Statute, which specifies structures and functions as follows:

LEGISLATIVE BRANCH

The Legislative Branch, known as the Band Assembly, is empowered to enact laws which regulate the internal and external affairs of the Band. Through legislation, the Band Assembly also appropriates money for each tribal government program.

One representative from each of the reservation's three districts is elected by the people of that district to serve a four-year term as a member of the Band Assembly. In addition, the people of all three districts elect the Band's Secretary-Treasurer, who serves a four-year term as Speaker of the Band Assembly. Each Assembly is comprised of a total of four session over two years. The Speaker may also call a special session any time the Assembly is in recess. Meetings of the Band Assembly are always open to Band members who wish to attend.

EXECUTIVE BRANCH

The Executive Branch sees to it that the laws of the Band are faithfully executed. It has the power to conduct relations with all other governments and their political subdivisions; to negotiate and execute agreements, contracts, cooperative and reciprocity agreements, and memoranda of understandings on behalf of the Band subject to ratification by the Band Assembly as required by Band Statute. The Executive Branch also has the authority to administer contracts and grants, cooperative and reciprocity agreements, and memoranda of understandings, and to prepare annual budgets for all executive functions.

The top official of the Mille Lacs Band government is the Chief Executive, who is elected by Band members every four years and is empowered to appoint Commissioners, subject to Band Assembly ratification, who run the various departments of the Executive Branch. The various Commissioners have the authority to speak on behalf of the Band and to negotiate contracts. Commissioners oversee and set budgets for the Band's various programs. The Administration Policy Board (which is responsible for general policy for the executive branch) is comprised of the commissioners of Natural Resources, Education, Administration, and Health and Human Services and meets the second Thursday of every month; Band members are welcome to attend and voice their opinions.

JUDICIAL BRANCH

The purpose of the Judicial Branch is to preserve and maintain justice and to accord equal rights, equal protection, and equal opportunity for all Band members under Band laws and statutes. The justice system, which emphasizes the non-adversarial mediation of disputes, handles approximately 750 cases annually. The Band's Chief Justice and Associate Justices are elected by Band members, although the Chief Justice has the power to fill vacancies that occur between elections. In 1994, the Mille Lacs Band was instrumental in obtaining recognition from the federal government's Department of the Interior of the tribal courts of the Mille Lacs.

D. ANSWERS TO COMMONLY ASKED QUESTIONS

"WHAT IS THE MILLE LACS BAND DOING WITH ITS CASINO REVENUES?"

- Some Indian tribes and bands have decided to distribute the money they earn from casinos directly to their members. However, the Mille Lacs Band does not distribute the money it earns from the Grand Casinos directly to Band members. That's because Band members decided to have their tribal government spend the money on projects that would benefit the entire Band and the surrounding community. Sadly, there are many critical areas of need because the Mille Lacs Band – like all Indian nations in this country – has suffered for centuries from neglect and outright abuse.

- Income from the Grand Casinos is used for the Mille Lacs Band's health programs, education system, housing and infrastructure projects, legal system, law enforcement, natural resources management, social programs, tribal government administration, business development, long-term savings, and other programs.

- Even though the Mille Lacs Band doesn't distribute money from the casinos to individual Band members, the casinos are helping to improve Band members' lives by creating new jobs and stimulating the growth of jobs in other industries. Before the casinos, unemployment on the Mille Lacs Reservation was 40%, and 60% of Indians on the reservation lived below the federal poverty level. Today, unemployment had dropped to a level comparable with the national average, family incomes are up dramatically, and the number of American Indians on government assistance programs like welfare and AFDC has dropped substantially.

- To make sure they are using their money wisely, the Mille Lacs Band has created a Corporate Commission to find ways of investing in other tribal-owned businesses, and a Corporate Advisory Board which provides the Band with sound business advice.

- Although the Mille Lacs Band has made great strides in the last few years, it will be many more years before Band members achieve a level of education, health care, social services, housing, and business and economic development anywhere near the level other Americans take for granted.

“IS ANYBODY ELSE BENEFITING FROM CASINOS BESIDES THE INDIANS?”

- Absolutely. The Mille Lacs Band's Grand Casinos have created approximately 2,250 new jobs, 80% of which are held by non-Indians. In addition, the Grand Casinos have stimulated the creation of an additional 2,400 jobs in neighboring businesses like gas stations, convenience stores and motels. The Mille Lacs Band tribal government also employs 132 non-Band members.

- All together, Minnesota casinos have created 10,350 direct jobs and 22,000 indirect jobs according to a 1993 study by the state government. If these jobs were attributed to a single employer, tribal gaming would be the seventh largest employer in Minnesota. And most of these newly created jobs – 73% – are held by non-Indians.

- Nearly 85% of casino jobs are full-time with health benefits and good pay. 76% of the jobs created by casinos are in rural areas where steady jobs are in short supply.

- Because more good jobs are now available, the number of people on government assistance programs has decreased. For example, according to a 1992 study by financial analysts KPMG Peat Marwick, the number of AFDC recipients in the counties surrounding Indian casinos decreased 16% during a time when the number of recipients in the state as a whole increased by 17%. And according to Minnesota Planning, a division of the state government,Minnesota is saving as much as $7 million a year in welfare costs because of casino jobs.

- Indian casinos – with their annual payroll of over $116 million – are pumping money into the economy. Minnesota Planning estimates the total gross economic impact of casinos – including employment, out-of-state visitation, and gaming-related goods and services – at $1.53 billion.

- Since opening in 1991, the Grand Casinos have bought nearly $15 million worth of goods and services from neighboring businesses. And each Grand Casino operates an Area Relations Department to help neighboring businesses harness the casinos' visibility and drawing-power for their own benefit.

- A portion of proceeds from the Grand Casinos are fed directly back into the local region through charitable donations to law enforcement agencies, hospitals, food shelves, and other organizations or projects which serve the entire community. So far, over $500,000 has been given in donations. The Mille Lacs Band also offers a summer lunch program to all members of the community, including non-Indians.

- Casino revenues have allowed the Mille Lacs Band to build day care facilities that provide good care at a reasonable cost for Indian and non-Indian children.

- Casino revenues have also allowed the Mille Lacs Band to study and improve the environment on the reservation and in surrounding communities. In 1992, the Band spent $100,000 to study the water quality of Lake Mille Lacs, inventory the lakes, rivers and streams within the reservation, protect wetlands, study and eliminate air, water and soil pollution, and protect the region's drinking water.

- The city of Onamia reports an increase of over $2 million in its total estimated market value since Grand Casino Mille Lacs opened, and the city of Hinckley reports growth in its tax base of 51 percent since Grand Casino Hinckley opened.

- Property values in areas surrounding many casinos have increased, so area homeowners are also seeing a benefit from the casinos. Local realtors report that homes sales are up and rental units are increasingly scarce due to the influx of new residents who are attracted by the area's thriving job market.

"WHY DON'T INDIANS PAY TAXES?"

- Contrary to popular rumors, Indian casinos do pay taxes. Profits from the Grand Casinos are taxed 100% by the Mille Lacs Band tribal government, which is using the money to try and improve the lives of Band members after 100 years of grinding poverty.

- Indian casinos also generate state and federal taxes, though opponents of Indian gaming have done their best to ignore this fact. Since opening for business in 1991, Minnesota's Indian casinos have generated over $30 million in federal taxes and nearly $6.5 million in state taxes through wages paid to employees.

- The Mille Lacs Band also saves taxpayers money by spending its own money to fund public works projects. Altogether, the Band will spend about $14.3 million for public buildings, $5 million for roads and utilities, and $2.7 million for housing – a savings of $22 million for state and federal taxpayers. In addition, the Band makes donations to local government and service organizations like the police department, the fire department, and hospitals.

- And – to shatter another myth – the vast majority of individual Indians pay exactly the same taxes as everyone else in America, including federal and state income taxes, social security taxes, unemployment insurance, real estate and sales taxes, liquor and cigarette taxes, and gas and motor vehicle taxes. The only exceptions are Indians who live and work on the reservation (they do not pay state income tax), Indians who live and purchase goods on the reservation (some of them get rebates on sales taxes), and Indians who live on trust lands (they do not pay real estate taxes).

"WHY DO INDIANS GET SPECIAL TREATMENT?"

- Unfortunately, American Indians have been getting "special treatment" since the first Europeans set foot in the so-called "new world." Indians have seen their land stolen, their children taken from them, and their people killed in the name of "civilization." Over the last 100 years, the Mille Lacs Band has been lied to by a government that promised to honor treaties, cheated by greedy companies seeking to despoil their land, and literally burned out of their homes when they refused to be herded like cattle onto reservations.

- As part of their struggle, the Mille Lacs Band and other Indians tribes and bands have had to fight for the recognition they deserve as sovereign nations. Indian tribes and bands are independent nations, like the United States of America; this is the law, although some people try to pretend it isn't.

- As a sovereign nation, the Mille Lacs Band of Ojibwe has its own elected leaders, government departments, laws and judicial system. For the first time in 400 years, the Band is now able to determine its own future, instead of having that future decided for them by others.

- The United States government is finally acknowledging the rights of Indian nations. In 1988, Congress passed the Indian Gaming Regulatory Act. The act stated that Indian tribes and bands, as sovereign nations, have the right to operate casino-style businesses on reservation land. With the revenues from casinos, American Indians are improving life for themselves, their children, and their neighbors. Casinos represent the first real economic development tool Indians have had in four centuries that hasn't been stolen from them – yet.

APPENDIX 9.—STATEMENT OF JACOB VIARRIAL, GOVERNOR, PUEBLO OF POJOAQUE

On behalf of the Pueblo of Pojoaque, I want to thank you for the opportunity to submit testimony regarding House Bill 497, "The National Gaming Impact and Policy Commission".
Please allow me to preface it with a brief history of the existence of our Pueblo. and testimony relating to our gaming operations in the Pueblo of Pojoaque.

In 1680, as a result of the Pueblo Revolt, the Pueblo of Pojoaque was rendered non-existent for 30 years. In 1710 it was revived again and continued to exist until the end of the 19th century, at which time once again it ceased to exist. In 1932, after an incessant determination by 14 Tribal members the Pueblo of Pojoaque was re-established and today we still find ourselves piecing together the fragments from the devastating destruction that resulted from the periods of non-existence. The interruptions on the life of our Pueblo had a far reaching devastating affect that caused us to loose our religious heritage, our traditional culture, our Indian dances and customs and our Kiva, which is our sacred church. It is important that I convey to you, in a meaningful way, that our religious beliefs and practices require us to have a proper place for prayer; this proper place is a Kiva. However, because of our financial constraints and our continued pressing needs, we had been unable to construct this sacred Kiva. This resulted in a repression of our religious freedom and expression - to say the least, these six decades without a Kiva and without a full restoration of our Indian culture have been very painful for our people in the Pueblo of Pojoaque.

The Pueblo of Pojoaque has always made an effort to use any and all resources available to us to develop and diversify our economic base in order that we can eventually restore our nation, our culture and adequately meet the needs of our people. With this mind, we established a few business enterprises in our reservation. The revenue generated from these businesses helped us provide for some of our needs but unfortunately, just when we started realizing a profit we were affected by an economic recession which threatened the life of all our businesses and inevitably the livelihood of our people. It was during this struggle for survival that we started our gaming operations with paper pulltabs. While the revenue generated from these pulltabs may have not been very high, it was significant enough to kept us from going bankrupt. The affect on the Pueblo would have been devastating as we had borrowed approximately 5 million dollars to establish our businesses and furthermore, we had collateralized these businesses with all the assets from our Pueblo; as you can imagine, the negative impact would have been irreparable - but thanks to our gaming operations we did not have to experience this tragedy. Subsequently, we expanded our gaming operations to include other forms of gaming activities; I cannot stress enough how the revenues from gaming have improved our Pueblo. The Pueblo of Pojoaque has made great strides - the revenues derived from our gaming operations have made it possible for us to reduce our unemployment rate down to zero; we are providing comprehensive benefits for our tribal members and our employees; we have instituted a variety of social services including programs for health, education, senior citizens and our youth. In addition, our gaming revenues finally made it possible for us to build our Kiva; as indicated above, this is something our Tribe had been waiting for and will celebrate with heartfelt thanks and great pride forever - regretfully, many of our elders have passed on; some of them wishful and heart broken that they did not see a streak of hope for a Kiva; others who passed on having seen at least the foundation for our Kiva, left with peace and hope knowing that our youth now will have an opportunity to be raised in an environment that is marked by our traditional beliefs and practices - our youth will also get to experience and learn our true culture and be able to practice our customs; this has instilled a great sense of pride and joy in our youth, our elders and other Tribal members alike. It is important to note that none of this could be accomplished without our gaming revenue - to enumerate the benefits to us from Indian Gaming would truly be an understatement; there are some things we just can't attach dollar amounts. Furthermore, if our gaming activities continue to generate funds for our Pueblo we are committed to developing a desperately needed community wastewater treatment plant - this plant would not only benefit Pojoaque Tribal members but the community as a whole because the water contamination problem in this area is a great health and safety hazard for everyone. This venture would be quite expensive at approximately 100 million dollars; our plan would be to fund this over a ten year period. Because the cost associated with a project of this magnitute is exhorbitant, it is unlikely that it will be accomplished by any other means although the need is so great. As you can see from my testimony, Pojoaque Pueblo's gaming revenues are used prudently and continue to enhance our economic base which is in accord with the intent of the Indian Gaming Regulatory Act - the benefits derived from our enhanced economy are not only realized by our Pueblo but by the entire community. However, as I write this testimony capturing the positive improvements to our Pueblo, the many needed services we now provide for our people, our goals and our dreams, all due to gaming dollars, I can't help but feel a heavy heart filled with pain and confusion wondering how much longer we can count on our gaming revenue as the battle for our survival never seems to have an end. For several years the Pueblo of Pojoaque tried to negotiate a compact with the State of New Mexico for class III gaming pursuant to the Indian Gaming Regulatory Act. Our efforts were to no avail. During these years we spent a tremendous amount of money and time fighting this battle; these resources could have easily been put to better use in our Pueblo. Finally, with the election of a new Governor for the State of New Mexico, we recently negotiated and signed a compact for Class III Gaming in the Pueblo of Pojoaque (13 other compacts with several Tribes were also signed by the governor). This was a dream come true since we had not succeeded with the former Governor after several attempts to negotiate. However due to a lawsuit challenging the Governor's authority to sign compacts and a recent Supreme Court ruling on the issue, a dark cloud hangs over our future. As you are aware, the Court ruled that the Governor of the State of New Mexico overreached his authority by negotiating and signing State-Tribal compacts without legislative authorization, thus disrupting legislative authority. This court ruling is contrary to established practice in many states where State-Tribal compacts are negotiated and signed by the Goveror of the State as required by the Indian Gaming Regulatory Act. This ruling is just another example of the continued harrassment, abuse and injustice on Indian Tribes; it takes us a lifetime to reach an agreement with the State and when we do it is challenged within 3 months with a conclusion by the court within 5 months, not giving us a chance to prove that it will work to everyone's benefit - this is quite unfair, particularly in light of the fact that we negotitated in good faith and relied on the mutual agreement with the State. However, because the Pueblo of Pojoaque has conducted its affairs in compliance with the Indian Gaming Regulatory Act, operating our gaming operations in accordance with our Tribal/State compact, signed by the Department of Interior and filed in the Federal Register, we will continue our gaming business activities. However, although we are within the scope of the law we will likely become victims of this court ruling in one way or another. Just to mention at least two ways in which we see ourselves immediately negatively impacted, the New Mexico Broadcasters Association has threatened radio and television stations with federal criminal sanctions for advertising Indian casino ads; the warning is "avoid slots and other messages that suggest casino style gambling" This warning by the Broadcasters Association is apparently based on a Federal Law that, with some exceptions, makes it a crime for TV and radio stations to advertise games of chance. However, one exception to this law is games that are conducted under the provisions of the Indian Gaming Regulatory Act calling for a Tribal/State compact which we currently have! We have done nothing to violate the Act (IGRA) or to breach the provisions of our compact, therefore there is no justifiable reason for our advertising efforts to be stifled. One other way we have fallen prey to the ripple effects of this ruling is by the fact that device suppliers are beginning to withhold transactions for class III gaming devices apparently for fear of repercussions - this negative effect is already being felt, yet we have done nothing to deserve this. It is important to note that we don't have an alternative since our survival depends on gaming revenues, we must stay in operation, we will not halt our gaming business; to do so would cause irreparable damage to our Pueblo and we can't allow this to happen.

Turning to other matters on Indian Gaming, I am sure you are also aware of the multitude of attacks on Indian Gaming by several non-indian parties with a personal interest in capturing as much of the Gaming market as possible - this is nothing more than fear of competition. It becomes quite frustrating to us in Indian Country when we see that Indian Gaming is only approximately 4% of the Nation's gaming industry and yet we see such a strong effort being made to quash Indian Gaming - this is not only greedy, but unfair. Some of the charges by the opponents of Indian Gaming have focused on the perceived "lack of standards and regulation" and the "vulnerability of Indian Gaming to organized crime". As you are aware, an investigation conducted by the Department of Justice revealed that the allegations concerning infiltration of organized crime are unfounded and unsubstantiated, but, nontheless, these allegations continue to be in the forefront of issues regarding Indian Gaming. With respect to "lack of Regulation", I want attempt to clarify this misconception: When the Pueblo of Pojoaque contemplated engaging in gaming activities, one of our immediate priorities was to ensure that adequate and effective regulatory systems were implemented if we were to operate clean and honest gaming operations; Although we have installed state of the art regulatory systems and internal controls throughout our gaming operations, this will always remain a priority to us. We will continue to ensure that our systems are always updated and adhered to by all our employees and any violation of our regulations will not be tolerated. It is our philosophy that stringent enforcement is in our best interest if we are to succeed in this business venture and that our customers will also be well protected. We hired a knowledgeable and competent firm with over 25 years experience in this field to design our internal control systems recognizing that a properly installed internal control system is the backbone to a successful operation and is the only viable means by which we can protect both our gaming operations and the public from any criminal elements. In the regulatory scheme, we have an independent Gaming Commission vested with the responsibility and authority to oversee and regulate all gaming activities; we operate and manage our gaming facility, there are no outside management firms under contract; we conduct annual audits performed by an Independent Certified Public Accounting Firm.; we conduct thorough background checks on our employees, vendors and consultants; we have a strict separation of departmental functions; our security and surveillance department is distinctly separated with no overlapping of responsibilities for better accountability and control; security is provided 24 hours a day inside and out of our facility. Our Security Officers are required to go though police academy training prior to being licensed. In addition, we have implemented a variety of employee training programs; we have an aggressive drug testing policy that is enforced through strict disciplinary action should it become necessary. We don't hesitate to terminate employees when it is warranted as we strongly believe that a clear message must be delivered thoughout our gaming operations that we do not tolerate conduct that may hinder our ability to manage a professional and clean operation.

Members of the Committee, as you can see from the above testimony, the Pueblo of Pojoaque runs a professional, well regulated gaming operation. Our Tribe uses our revenues all for economic development purposes as mandated by the Indian Gaming Regulatory Act (IG RA). We have invested millions of dollars in our gaming operations and we are hopeful that we can continue to improve and maintain services for our people.

Thanks for the opportunity to submit this testimony and finally I will focus on our review of House Bill 497, now before you, and want to comment on its provisions. While we feel confident that the results of a gaming study, more specifically an Indian Gaming Study would bring to light the overall positive impacts of Indian Gaming, we are concerned that there is no requirement for Indian membership on the Commission conducting this study.

It seems appropriate that a requirement for Indian membership be included in this Bill since Indian Gaming is an integral part and subject of this comprehensive study.

Including Tribal members on this Commission would enhance the validity of the data collected for evaluation and it would also ensure a fair and equitable process. This is likely because several Indian Tribes engage in gaming activities and Tribal members have firsthand knowledge and overall understanding of the positive effects of Indian Gaming . Moreover, there is no provision in this bill for studying the positive aspects of Indian Gaming, i.e. the prudent use of Indian Gaming resources.

Under Section 4(2)(H) "Matters Studied", the provision to study whether Indian Gaming should be regulated by States instead of the Federal Government causes great concern as it purports to disregard our sovereignty and our constitutional right to self regulation. We are currently regulated by Federal Law through the Indian Gaming Regulatory Act (IGRA) as it was passed in 1988. This was a concession on our part as Indian Nations because our sovereignty and our rights to self-regulation for gaming were fully preserved prior to IGRA through the Supreme Court decision on the Cabazon case. It was through the enactment of IGRA that States were allowed some regulatory authority, but only through negotiated compacts with Indian Tribes. It was never the intent, at least from congressional and court actions, of the Federal government or the Court system to vest the states with regulatory authority over Indian Nations; our sovereignty is independence and self-determination for our people- it is our inherent and uncompromising authority to self-regulate our Tribal Governmental activities, including Indian Gaming. We hope that in this legislative process you lend a positive approach to our concerns indicated above and that you protect our rights under the Indian Gaming Regulatory Act. We ask that you preserve the principles of the Cabazon Supreme Court Case and that you preserve our rights as sovereign Tribal Nations in order that we can govern ourselves independently.

We ask for your support as we strive to provide the basic services for our people that others have enjoyed for many years and taken for granted. Thank you for your support.

APPENDIX 10.—STATEMENT OF KEN PAQUIN, CHAIRMAN/EXECUTIVE DIRECTOR, SANE BOARD, AND ERNEST J. LUJAN, GOVERNOR, SANTA ANA PUEBLO

On behalf of the Santa Ana Non-Profit Enterprise (SANE) Board and Santa Ana Pueblo, we submit our comments regarding HR 497 and testimony about our gaming operations for your review and consideration, prefaced by a brief description of our Pueblo.

The Pueblo of Santa Ana is situated within 63,000 acres located 20 miles north of Albuquerque, New Mexico with the the old Santa Ana Pueblo "Tamaya" on the north bank of the Jemez River in an area of volcanic mesas and sandy plains. We have approximately 650 Tribal members and our culture and traditions remain a great priority in the midst of our all pursuits. We are proud to be a progressive Tribe with long term commitment to enhanced economic development within our reservation. We see development as a tool for ensuring economic security and improving the quality of life for all Tribal members, thus we constantly look for innovative ideas to diversify our economic base. However, as we all know, diversifying an economic base requires substantial initial capital investments which have been beyond our financial means. In our quest to find alternative means of generating revenues we turned to the Indian Gaming Regulatory Act as passed by Congress in 1988 and we established our gaming operations in 1993. Prior to our gaming operations, Santa Ana had little hope for enhanced economic opportunities for our people despite our efforts to develop and maximize our business ventures. The economic deprivation that we suffered for many years resulted in high unemployment rates as well as a lack of many needed services for the members of our Tribe, but finally through the establishment of our gaming activities we have been able to see some very positive results. The Santa Ana Non-Profit Enterprise (SANE), a Non-profit business Enterprise under the auspices of the Santa Ana Tribe was established; a Board (the SANE Board) was created to set policy and direct the future of our business ventures - since then, we have seen a great improvement in the overall economic condition of Santa Ana Pueblo as a whole. Prior to this move, our resources were limited to barely sustain our few revenue producing businesses within the Pueblo. Our gaming revenues have enabled us to nourish these businesses where they can someday become self-sustaining - we finally, now see an array of hope for improved overall economic development in our reservation, i.e. land acquisition, long term investments, adequate funding for health insurance programs, opportunities and programs for our elderly, youth programs, employment programs, scholarship and library programs, housing development and maintenance programs, etc... We are strongly committed to providing for our healthcare, education, religious affairs and the general welfare of the Pueblo of Santa Ana by creating job opportunities that once seemed unreachable . Our goal is to build on the talents and skills of our members to provide for long-term employment. We firmly believe, as the evidence shows, that through prudent use of our Gaming resources we can eventually see all members of our Pueblo become self-sufficient and contributing to our economy. Santa Ana has made great strides through our Gaming resources and we have adhered to the Indian Gaming Regulatory Act's (IGRA) mandate to use our Gaming revenues for Tribal economic development purposes only. This is one of the reasons why Indian Gaming is so unique and altogether different from other forms of gaming: Our revenues from Gaming operations must be used for economic development within our reservation. This is why we can readily attest to the positive impacts of Indian gaming on our Pueblo; we can see both the tangible and non-tangible results quite rapidly. However, We want to inform you that these positive benefits are also reaped by non-indian members of the community as more than 50% of our employment force is non-indian. These are direct benefits to the community with some of the indirect benefits stimulating trade for the entire non-indian community.

Thanks for the opportunity to submit this testimony. We have reviewed House Bill 497, now before you, and want to comment on its provisions. While we feel positive that the results of a gaming study, more specifically an Indian Gaming Study would bring to light the overall positive impacts of Indian Gaming, we are concerned that there is no requirement for Indian membership on the Commission established to conduct this study. It seems appropriate that since Indian Gaming is an integral part and subject of this comprehensive study, that a requirement for Indian membership be included in this bill.

Including Tribal members on this Commission would enhance the validity of the data collected for evaluation and it would also ensure a fair and equitable process. This is likely because several Indian Tribes engage in gaming activities and Tribal members have firsthand knowledge and overall understanding of the positive effects of Indian Gaming . Moreover, there is no provision in this bill for studying the positive aspects of Indian Gaming, i.e. the prudent use of Indian Gaming resources.

Under Section 4(2)(H) "Matters Studied", the provision to study whether Indian Gaming should be regulated by States instead of the Federal Government causes great concern as it purports to disregard our sovereignty and our constitutional right to self regulation. We are currently regulated by Federal Law through the Indian Gaming Regulatory Act (IGRA) as it was passed in 1988. This was a concession on our part as Indian Nations because our sovereignty and our rights to self-regulation for gaming were fully preserved prior to IGRA through Supreme Court decision on the Cabazon case. It was through the enactment of IGRA that States were allowed some regulatory authority, but only through negotiated compacts with Indian Tribes. It was never the intent, at least from congressional and court actions, of the Federal government or the Court system to vest the states with regulatory authority over Indian Nations; our sovereignty is independence and self-determination for our people- it is our inherent and uncompromising authority to self-regulate our Tribal Governmental activities, including Indian Gaming. We hope that in this legislative process you lend a positive approach to our concerns indicated above and that you protect our rights under the Indian Gaming Regulatory Act. We ask that you preserve the principles of the Cabazon Supreme Court Case and that you preserve our rights as sovereign Tribal Nations in order that we can govern ourselves independently.

APPENDIX 11.—STATEMENT OF JOHN WARREN KINDT,[1] PROFESSOR, UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN[2]

On September 21, 1994, the House Committee on Small Business held a hearing on the socio-economic impacts of the trend toward increased legalized gambling activities.[3] At the hearing, the committee received testimony from various experts, all of whom criticized the impacts legalized gambling activities inflict upon social-welfare budgets, the criminal justice system, small businesses, and the U.S. economic base. Among other conclusions presented, legalized gambling--as a strategy for economic development--was thoroughly discredited. Indeed, Committee Chair John J. LaFalce expressed his own concerns on the issue, including the need for a national policy.

Despite these expressed concerns, legalized gambling interests are utilizing millions of dollars to misdirect the debate and cause government decisionmakers and the public to reach invalid conclusions. First, there is the incorrect assumption that legalized gambling activities are like other business activities. Instead, legalized gambling activities have large industry-specific negatives, resulting in a cumulative negative economic impact.[4] Second, the industry's tendency to focus attention on specialized factors provides a distorted view of the localized economic positives, while ignoring the large business-economic costs to different regions of the United States.[5] Third, the extraordinary amount of money which is legally used to overwhelm any opposition leads to unbalanced decisionmaking processes by elected officials, regulatory agencies, and even the court system. Almost by definition, there can be little compromise; that is, either the national economy is a non-gambling one, or it is a legalized gambling economy which will eventually "bust."

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[1] Professor, Univ. Ill. at Urbana-Champaign. B.A. 1972, William & Mary; J.D. 1976, MBA 1977, U. Ga.; LL.M. 1978, SJD 1981, U. Va.; Associate, Program in Arms Control, Disarmament, and International Security, University of Illinois. This Statement should be interpreted as representing only the individual views of the author.

[2] Some new developments and footnotes have been added, but most of this abbreviated Statement was originally published as part of the following article: John W. Kindt, U.S. National Security And The Strategic Economic Base: The Business/Economic Impacts Of The Legalization Of Gambling Activities, 39 ST. LOUIS U.L.J. 567 (1995) [hereinafter Strategic Economic Base]. To save space, substantial footnotes and text from the published Article have been omitted from this abbreviated Statement, but the entire text and supporting documentation may be found in the St. Louis University Law Journal.

[3] See generally The National Impact of Casino Gambling Proliferation: Hearings Before the House Comm. on Small Business, 103d Cong., 2d Sess. 1-32 (1994) [hereinafter Cong. Hearing].

Therefore, with the legalization of various types of gambling activities sweeping the United States and much of the international community, the issue is whether this trend constitutes an economic boom, a harmless recreational pastime, or an actual threat to the strategic economic base of the industrialized world, and in particular, of the United States. Business-economic history indicates that the widespread legalization of gambling activities precipitates a classic "boom and bust" economic cycle. Accordingly, there is substantial economic evidence and public policy precedent to conclude that because legalizing gambling activities represents a threat to the U.S. economic base and to stability of expectations,[6] Congress should consider federal legislation to re-criminalize or severely limit legalized gambling activity. These conclusions are supported by both cursory and in-depth reviews via the classic McDougal/Lasswell decision-making model for policymakers.[7]

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[4] See generally, Robert Goodman, Legalized Gambling as a Strategy for Economic Development (Ctr. Econ. Development, U. Mass.-Amherst 1994) [hereinafter CED Report].

[5] See, e.g., Cal. Governor's Off. Plan. & Research, California and Nevada: Subsidy, Monopoly, and Competitive Effects of Legalized Gambling ES-1 (Dec. 1992).

[6] In the areas of legal and government policy, which subsume strategic socio-economic and business concerns, the classic decision-making models were formulated by the post legal realists, in particular, Professor Myres McDougal and Professor Harold Lasswell who postulated a conceptual framework for legal decision-making in a landmark article directed toward legal educators and law professors. Harold D. Lasswell & Myres S. McDougal, Legal Education and Public Policy: Professional Training in the Public Interest, 52 Yale L.J. 203 (1943). See also Harold D. Lasswell & Myres S. McDougal, Criteria for a Theory about Law, 44 S. Calif. L. Rev. 362 (1971); Myres S. McDougal, Jurisprudence for a Free Society, 1 Ga. L. Rev. 1 (1966); John W. Kindt, An Analysis Of Legal Education And Business Education Within The Context Of A J.D./MBA Program, 31 J. Legal Educ. 512, 517-18 (1982). The decision-making concepts which McDougal and Lasswell introduced were later expanded to include international law and U.S. domestic law, as these areas interfaced with "policy-oriented jurisprudence." See John N. Moore, Prolegomenon to the Jurisprudence of Myres McDougal and Harold Lasswell, 54 Va. L. Rev. 662 (1968); The Lasswell-McDougal Enterprise: Toward a World Public Order of Human Dignity, 14 Va. J. Int'l L. 535 (1974).

This strategic economic threat to the United States is immediate and should be addressed quickly before newly developing constituencies in the legalized gambling industry become widespread enough to dictate economic policy.[8] For example, the legalized gambling industry drafted a state constitutional referendum in Florida which aimed to "mandate" the introduction of casino-style gambling activities--even into communities which voted unanimously against such activities.[9] It is therefore not surprising that testimony presented at the 1994 congressional hearing indicated that in the future, franchised legalized gambling parlors may be as widespread as fast-food hamburger chains are today.[10]

Thus, the gravamen of the 1994 hearing was that U.S. policymakers need to develop a national policy on increased legalized gambling activities. Testimony at the 1994 congressional hearing estimated that if the current trend toward more legalized gambling activities continues, the net economic effect could result in the equivalent of an additional recession every 8 to 15 years.[11] Combined with regular cyclical recessions, the U.S. economy faces double jeopardy. Furthermore, although legalized gambling has just begun to expand in earnest, its sales already equal approximately two and one-half percent of U.S. Gross Domestic Product.[12]

In any event, macro-economic theories and concomitant economic formulae do not address this growing phenomenon. With the policy changes in the former Soviet Union and elsewhere, the stability and strength of the U.S. economic base will change rapidly in the next few years. The U.S. Bureau of Economic Analysis (and its economic "multipliers" which could easily be negligible or even negative with respect to legalized gambling activities),[13] as well as other economic agencies will need to keep pace. Furthermore, U.S. policymakers should query whether an economy which is becoming so heavily influenced and dependent on legalized gambling activities--which do not create new money or goods--is similar to the vulnerable, oil-dependent, U.S. economy of the early 1970s.

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[7] See id.

[8] For an authoritative analysis supporting this recommendation, see CED REPORT, supra note 4, at 18. Many policymakers are concerned that legalized gambling interests have large budgets to support efforts to legalize various forms of gambling throughout the United States. For example, New Jersey has restrictions prohibiting political contributions from casinos. Id.

[9] See Martin Dyckman, Misleading the Public, ST. PETERSBURG TIMES, Nov. 1, 1994, at A13.

[10] See Cong. Hearing, supra note 3, at 9-10.

[11] Id. at 73.

[12] Id.

In the 1800s, the strategic economic and military consequences of an economic downturn were less destructive and less absolute. However, in the modern world, the United States and its allies cannot afford to experiment with their interdependent economies by elevating legalized gambling activities to the level where an economic "boom and bust" cycle[14] or a classic "speculative economic bubble"[15] could occur.[16] Unfortunately, because of the gambling industry and the vagaries of the U.S. legal system[17] which protects the scope and speed with which the political constituencies supporting the legalized gambling industry develop,[18] such experiments may already be so far advanced that they are beyond the control of U.S. policymakers.

Due to several large socio-economic negatives which are associated with legalized gambling activities but which neither occur in nor accompany other types of industries, it can be concluded that there are substantial business and economic reasons to believe that widespread (and even localized) legalized gambling activities are inherently recessionary in nature. These negatives include: modest increases in infrastructure costs, relatively high increases in regulatory costs, large costs to the criminal justice system, and social-welfare and business-economic costs in the billions of dollars.[19] These business and economic costs can easily translate into recessionary pressures and lost jobs from the rest of the economy. Furthermore, the net creation of jobs claimed by the legalized gambling industry is at best a breakeven proposition, and the evidence suggests that regional net job losses can easily occur[20]--primarily because "consumer dollars" are drained from the economy.[21] The literature frequently refers to this process as "cannibalization" of the pre-existing economy--including the pre-existing "tourist" economy.[22]

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[13] As of 1994, for example, the U.S. Bureau of Economic Analysis had no economic multipliers for the legalized gambling/riverboat industry. The CED Report indicated that the multipliers for legalized gambling activities are negative. CED REPORT, _supra_ note 4, at 49-50; _see_ _Cong. Hearing_, _supra_ note 3, at 81.

[14] CED REPORT, _supra_ note 4, at 18.

[15] For example, the 1929 U.S. stock market scenario presents such a bubble. _See_ PAUL A. SAMUELSON & WILLIAM D. NORDHAUS, ECONOMICS 204 (14th ed. 1992) ("Speculative Bubbles"); PAUL A. SAMUELSON, ECONOMICS 424-25 (10th ed. 1976). _See also_ _Cong. Hearing_, _supra_ note 3, at 71-73.

[16] _See_ Steven D. Gold, _It's Not a Miracle, It's a Mirage_, ST. LEGIS., Feb. 1994, at 28.

[17] _See generally_ I. NELSON ROSE, GAMBLING AND THE LAW (1986).

[18] CED REPORT, _supra_ note 4, at 18.

As of 1993, no state had a plan concerning the statewide development of various legalized gambling activities. The only baseline study was a 1976 federal report by the U.S. Commission on the Review of the National Policy Toward Gambling, entitled Gambling in America.[23] This 1976 report was apparently prompted by the proposed economic development of Atlantic City, New Jersey, via the legalization of land-based casino gambling. Considering that in general the Atlantic City economy has significantly worsened since 1976, serious questions should be raised about extending this experiment nationwide.

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[19] See, e.g., MD. DEP'T HEALTH & MENTAL HYGIENE, ALCOHOL & DRUG ABUSE ADMIN., TASK FORCE ON GAMBLING ADDICTION IN MARYLAND (1990) (Valerie C. Lorenz & Robert M. Politzer, co-chairs 1990). For example, "[p]athological gamblers cost Maryland and its citizens about $1.5 billion annually in lost work productivity and embezzled, stolen or otherwise abused dollars." Id. at 2. "The total cumulative indebtedness of Maryland's pathological gamblers exceeds $4 billion." Id.

[20] Grinols, Bluff Or Winning Hand? Riverboat Gambling And Regional Employment And Unemployment, 51 ILL. BUS. REV., Spring 1994, at 8-11 (indicating Illinois riverboats have not created a net increase in employment and may even have cost net jobs). Since gambling activities take jobs from the rest of the economy, the creation of jobs is an illusory claim. This principle is so basic that it is in the WORLD BOOK ENCYCLOPEDIA. WORLD BOOK YEAR BOOK 398 (1994) ("The employment increases resulting from most gambling operations are illusory."). See also Cong. Hearing, supra note 3, at 71.

[21] This business/economic principle is another principle which is so basic that it is in the WORLD BOOK ENCYCLOPEDIA. WORLD BOOK YEAR BOOK 398-400 (1994). See supra note 20, and accompanying text; CED REPORT, supra note 4, at 49-50.

[22] See, e.g., CED REPORT, supra note 4, at 51; Cong. Hearing, supra note 3, at 87-88 (statement of Congressman Frank R. Wolf). See also Cong. Hearing, supra note 3, at 34 (statement of Congressman Richard H. Baker); FLA. DEP'T COM., IMPLICATIONS OF CASINO GAMBLING AS AN ECONOMIC DEVELOPMENT STRATEGY 5 (1994).

[23] U.S. COMMISSION ON THE REV. OF THE NAT'L POL'Y TOWARD GAMBLING IN AMERICA (U.S. Gov't Printing Off. 1976).

Because some demographics can easily allow the initial profit margins of many legalized gambling activities to be extremely large, it should be anticipated that companies will invest millions of dollars to encourage the legalization of gambling activities in various states. In 1994, for example, at least $16.5 million was spent in a losing campaign to bring casino gambling to Florida,[24] and at least $15 million was spent during two years on campaigns (including $8 million in the 1994 winning campaign) to bring video gambling terminals to Missouri.[25] However, skeptical economists emphasize that "any" influx of money to a community will create the appearance of economic development, and the socio-economic costs should not be overlooked.[26]

Several studies by the gambling industry allegedly bolster the claims of economic benefits. To examine these claims the Ford Foundation and the Aspen Institute funded a comprehensive 1994 report by the Center for Economic Development at the University of Massachusetts, which was entitled Legalized Gambling as a Strategy for Economic Development (CED Report).[27] The CED Report analyzed fourteen industry studies, and in general, was highly critical of them. Emphasizing that no state had a comprehensive development plan which analyzed legalizing gambling activities, the CED Report concluded that "hiding the costs" was apparently widespread and that legalizing gambling activities acted as economic "cannibalism" on the pre-existing economy and on other businesses.[28]

In the social-welfare context, legalized gambling is widely-accepted as constituting a regressive tax on the poor.[29] In other words, governmental policies directed toward "legalizing" and encouraging gambling activities make poor people poorer and intensify many pre-existing social-welfare problems. These socio-economic negatives are calculated to be extremely costly, and they parallel the negatives associated with alcohol and drug addiction. Substantial changes and unpredictable consequences can be anticipated throughout the insurance industry (i.e., increased fraud in the billions of dollars), the banking industry (i.e., extended credit losses) and the general business community, including, for example, increased personnel costs, lost work productivity, and bankruptcies.[30]

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[24] The public relations budget for convincing the voters to approve this referendum question on November 8, 1994, was apparently $16.5 million--significantly more than the combined budgets of the two gubernatorial candidates, Jeb Bush and Governor Lawton Chiles. Louis Lavelle, Voters Deal Loss to Casinos: Gambling Backers Lose Despite $16.5 Million Campaign, TAMPA TRIBUNE, Nov. 9, 1994, at 1, 5.

[25] Terry Ganey & Mark Schlinkmann, Hancock II Out: Slot Games In, ST. LOUIS POST-DISPATCH, Nov. 9, 1994, at A6.

[26] BETTER GOV'T ASSOC., STAFF WHITE PAPER: CASINO GAMBLING IN CHICAGO (1992) (a comprehensive and well-documented report) (introductory statements by BGA President William Lear and Exec. Dir. Terrence Brunner) [hereinafter BETTER GOV'T ASSOC. REPORT].

[27] CED REPORT, supra note 4.

[28] Id. at 16-19, 39, 51. See also Gold, supra note 16, at 30.

[29] See, e.g., CHARLES T. CLOTFELTER & PHILIP J. COOK, SELLING HOPE (Nat'l Bur. Econ. Research, Harvard Univ. Press 1989).

In the national media, the cost/benefit debate involving increased legalized gambling has been growing in scope. As this trend continues, a 1994 article in the Columbia Journalism Review cautions the news media to "flat out ask [experts, academics, and even other reporters] if they make money off the industry."[31]

Several prestigious U.S. business groups have instinctively responded to these concerns. For example, in September of 1993, the 85-member Greater Washington, D.C. Board of Trade unanimously rejected the Mayor's proposal to bring casino-style gambling to Washington, D.C.[32]

The gravamen of this debate is that state governments, by legalizing gambling activities, are creating large socio-economic problems which did not previously exist. It is well-established that by "legalizing" gambling activities (the "acceptability factor") and making those activities available to the public (the "accessibility factor"), state governments are creating a new population of addicted gamblers--a recognized addictive activity pursuant to the American Psychiatric Association (APA), with parallels to alcohol and drug addictions. From a baseline of .77 percent, the percentage of the adult population who are compulsive gamblers can easily rise to between 1.5 and 5 percent once gambling is legalized. The percentage of teens who become compulsive gamblers generally ranges between 4 and 6 percent, but this range appears to be increasing.[33]

Compulsive gambling will probably hover at approximately .77 percent of the population regardless of the steps taken by ethicists and governments to eradicate or solve this problem. However, the interesting statistic is that once state governments legalize gambling--once gambling receives the imprimatur of government and becomes not only "sociologically acceptable" but also is advertised as such--the number of compulsive gamblers will increase from .77 percent to between 1.5 and 5 percent of the population.

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[30] Strategic Economic Base, supra note 2, at 580 nn. 96-100.

[31] Stephen F. Simurda, When Gambling Comes To Town, COLUM. JOURNALISM REV., Jan.-Feb. 1994, at 36, 37-38.

[32] Liz Spayd & Yolanda Woodlee, Trade Board Rejects D.C. Casino Plan, WASH. POST, Sept. 25, 1993, at A1.

[33] Strategic Economic Base, supra note 2, at 581, nn. 103-07.

The social, business, economic and governmental costs of this phenomenon are potentially catastrophic. The average socio-economic cost per compulsive gambler per year has been calculated at $53,000.[34] For example, by "legalizing" land-based casino gambling and VLT's, the business-economic evidence strongly suggests that the South Dakota legislature has created, within 2 years, an additional $371 million per year in economic and social costs to its citizens.[35] Even if these negative numbers were to overstate the problems, they are still significant enough to predict major problems for U.S. society, business, and government.

CONCLUSION

Throughout the twentieth century, the U.S. economy has operated within a pristine economic environment uncontaminated by widespread legalized gambling. However, because pro-gambling philosophies are spreading rapidly throughout the United States, and the governmental infatuation with legalized gambling is so pervasive, the impacts of legalized gambling will soon be felt throughout the local, state and federal governmental systems--regardless of whether a particular state has or has not legalized a particular form of gambling. Academic disciplines will change and the standard economic formulae will have to be modified to accommodate the economic impacts of the gambling industry. Education will suffer both philosophically and fiscally as educational budgets are redirected toward addressing the increasing social-welfare costs.

The criminal justice system will incur not only increased costs, but also new forms of misconduct (such as gamblers unfairly beating the odds or "cheating" the legalized gambling operations). Financial institutions and banks will experience rapid and perhaps destabilizing impacts as pre-existing assets and large proportions of fixed consumer assets are diverted into legalized gambling activities. Bad debts and increased insurance fraud are projected to increase significantly.

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[34] See BETTER GOV'T ASSOC. REPORT, supra note 26, at 14 ($53,000/yr. is adjusted for inflation in 1992 dollars) (citing to POLITZER ET AL.). By 1994 the range of cost estimates began to fluctuate between $13,200 and $53,000, with most estimates beginning to group around $13,200 to $35,000. See Cong. Hearing, supra note 3, at 80 n.12.

[35] For an analysis of this phenomenon, see, e.g., John W. Kindt, The Economic Impacts Of Legalized Gambling Activities, 43 DRAKE L. REV. 51, 73-75 (1994). In 1995 an apparent confirmation of this phenomenon was reported in the case of legalized gambling activities in Iowa. Iowa Dep't Human Services, Gambling And Problem Gambling In Iowa: A Replication Survey (1995).

If the gambling trends of the 1990s continue, the negative impacts will prolong recessionary trends and slow recoveries in local, state and national economies. The economic history of the United States has indicated that the U.S. public has intermittently flirted with gambling and repeatedly rejected it as economically and sociologically unworkable.

If the U.S. public likes the "War on Crime" and the "War on Drugs," then the public will be enthralled with the forthcoming "War on Gambling." The tragedy is that unlike the first two "wars" on social ills, the "War on Gambling" can still be avoided--simply by not legalizing gambling activities. In other words, it will take affirmative government action to magnify a minor social ill into a major socio-economic problem.

Regardless of these considerations, it appears to be widely-accepted that U.S. economic strength constitutes a sine qua non of worldwide economic stability. Any industry which has a growth rate as substantial as that of the legalized gambling industry and which has the potential to cannibalize the pre-existing economy with a potential negative multiplier effect needs to be closely examined. At a minimum, a national commission to investigate the economic claims of the industry is necessary. In the interim, prudent strategic national policy necessitates that the federal government prohibit any increases in the various forms of legalized gambling activities or increases in its geographical expansion.

U.S. NATIONAL SECURITY AND THE STRATEGIC ECONOMIC BASE: THE BUSINESS/ECONOMIC IMPACTS OF THE LEGALIZATION OF GAMBLING ACTIVITIES

JOHN WARREN KINDT*

I. INTRODUCTION

ACCORDING to Nobel Prize winning economist Paul Samuelson,[1] it is basic economics that:

> [Gambling] involves simply *sterile transfers of money or goods* between individuals, creating no new money or goods. Although it creates no output, gambling does nevertheless absorb time and resources. When pursued beyond the limits of recreation, where the main purpose after all is to "kill" time, gambling subtracts from the national income.[2]

Similarly, from a political science/economic viewpoint, Professor Jack Van Der Slik has summarized these basic principles echoing much of the academic community: "[State-sponsored gambling] produces no product, no new wealth, and so it makes no genuine contribution to economic development."[3]

Government leaders of the United States are also beginning to raise some concerns. For example, in 1992, U.S. Senator Paul Simon of Illinois—a state which has rapidly legalized various gambling activities—read into the *Congressional Record* an article written by an authoritative economics professor.[4] According to Senator Simon, the article confirmed his own instinct that "Communities and States and the Nation should be careful when they look for easy revenue cures that may do more damage than they realize."[5] Based upon these concerns, in 1993, Senator Simon introduced to the Senate the Gambling Impact Study Commission Act[6] which was designed to "conduct a thorough study of all matters relating to the impact of gambling on States, political subdivisions of States, and Native American tribes,"[7] and to explore "possible alternative sources of revenue."[8]

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[1] Paul Samuelson won the Nobel Prize in Economic Science in 1970.

[2] PAUL A. SAMUELSON, ECONOMICS 425 (10th ed. 1976).

[3] Jack R. Van Der Slik, *Legalized Gambling: Predatory Policy*, ILLINOIS ISSUES, Mar. 1990, at 30, 30. This particular article was printed in a publication directed toward employees of the state of Illinois. Illinois is a developing gambling state.

[4] 138 CONG. REC. S187 (daily ed. Jan. 22, 1992) (reprinted article by Economics Professor Earl Grinols, *Gambling Doesn't Pay; It Costs. . . Betting Parlors Siphon Off More Money From Communities than They Generate*, ST. LOUIS POST-DISPATCH, Nov. 12, 1991, at C3).

Similarly, on September 21, 1994, Congressman John J. LaFalce, the Chair of the House Committee on Small Business, held a hearing on the socio-economic impacts of the trend toward legalized gambling activities.[9] At the hearing, the committee received testimony from various experts, all of whom criticized the impacts legalized gambling activities inflict upon social-welfare budgets,[10] the criminal justice system,[11] small businesses[12] and the United States economic base.[13] Among other conclusions presented, legalized gambling—as a strategy for economic development—was thoroughly discredited.[14] Indeed, at the start of the hearing, Congressman LaFalce expressed his own concerns for the issue,[15] and expressed a need for a national policy.[16] However, despite these expressed concerns, legalized gambling activities continue to spread across the nation.[17]

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[5] *Id.* (statement of Sen. Paul Simon).

[6] S. 1720, 103d Cong., 1st Sess. (1993).

[7] *Id.* § 4(a)(1).

[8] *Id.* § 4(a)(2)(B).

[9] *See generally The National Impact of Casino Gambling Proliferation: Hearings Before the House Comm. on Small Business*, 103d Cong., 2d Sess. 1-32 (1994) [hereinafter *Cong. Hearing*].

[10] *See, e.g., Cong. Hearing, supra* note 9, at 82-86 (statement of Valerie C. Lorenz, Ph.D., Compulsive Gambling Ctr). The only generally positive testimony was by a local administrator from Tunica, Mississippi who focused on the initial economic flash in the local economy and not on the regional economy. *Id.* at 50-55 (testimony of Webster C. Franklin, Tunica County, Mississippi). In contrast, the "expert testimony" was quite negative. *E.g., id.* at 42-49, 56-70, 71-76, 82-88

[11] *See Cong. Hearing, supra* note 9, at 14-18 (testimony of Jeffry L. Bloomberg, State's Atty, Lawrence County, S.D.).

[12] *See Cong. Hearing, supra* note 9, at 33-35 (statement of Congressman Richard H. Baker).

[13] *See Cong. Hearing, supra* note 9, at 4-8 (testimony of Professor Robert Goodman, University of Massachusetts).

[14] *See Cong. Hearing, supra* note 9, at 57, 76, 81, 86, 88, 100-01, 105-06.

[15] *Cong. Hearing, supra* note 9, at 1-2 (introductory statement of Congressman John J. LaFalce).

[16] *Cong. Hearing, supra* note 9, at 13 (statement of Congressman John J. LaFalce).

[17] *See, e.g.*, Terry Ganey & Mark Schlinkmann, *Hancock II Out: Slot Games In*, ST. LOUIS POST-DISPATCH, Nov. 9, 1994, at A6. [hereinafter *Slot Games In*] ("After three tries, full-blown riverboat gambling in Missouri became a reality as voters approved the 'games of chance' amendment 54 to 46 percent."). Multiple re-votes are commonly utilized as a strategy by

With the legalization of various types of gambling activities sweeping the United States and much of the international community, the issue is whether this trend constitutes an economic boom, a harmless recreational pastime, or an actual threat to the strategic economic base of the industrialized world, and in particular, of the United States.[18] Business-economic history indicates that the legalization of gambling activities precipitates a classic "boom and bust" economic cycle.[19] Accordingly, this Article concludes that because widespread legalized gambling activities represent such a threat to the strategic U.S. economic base and to stability of expectations,[20] Congress should seriously consider federal legislation to re-criminalize or severely limit practically all types of legalized gambling activity. As an interim measure, Congress should consider withholding federal funds from those states intent on experimenting with legalized gambling activities, for individual states should not be allowed to engage in a type of economic secession[21] which threatens the nation's

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legalized gambling proponents to wear-down and out-spend their opponents. *See id.; see also infra* note 24 (giving examples of multiple re-votes in different states, as recorded in the congressional hearing on Sept. 21, 1994).

[18] *See generally*, John W. Kindt, *The Economic Impacts of Legalized Gambling Activities*, 43 DRAKE L. REV. 53 (1994) [hereinafter *Economic Impacts*].

[19] *See Cong. Hearing, supra* note 9, at 77 (statement of Professor John W. Kindt, University of Illinois).

[20] This particular Article is summary in scope, but it was conceived within the penumbra of the McDougal/Lasswell model for decision-making. In the areas of legal and government policy, which subsume strategic socio-economic and business concerns, the classic decision-making models were formulated by the post legal realists, in particular, Professor Myres McDougal and Professor Harold Lasswell who postulated a conceptual framework for legal decision-making in a landmark article directed toward legal educators and law professors. Harold D. Lasswell & Myres S. McDougal, *Legal Education and Public Policy: Professional Training in the Public Interest*, 52 YALE L.J. 203 (1943); *see also* Harold D. Lasswell & Myres S. McDougal, *Criteria for a Theory about Law*, 44 S. CALIF. L. REV. 362 (1971); Myres S. McDougal, *Jurisprudence for a Free Society*, 1 GA. L. REV. 1 (1966); John W. Kindt, *An Analysis Of Legal Education And Business Education Within The Context Of A J.D./MBA Program*, 31 J. LEGAL EDUC. 512, 517-18 (1981); John W. Kindt, *An Analysis Of Legal Education And Business Education Within The Context Of A J.D./MBA Programme*, 13 LAW TEACHER 12, 14-16 (1979). The decision-making concepts which McDougal and Lasswell introduced were later expanded to include international law and U.S. domestic law, as these areas interfaced with "policy-oriented jurisprudence." *See* John N. Moore, *Prolegomenon to the Jurisprudence of Myres McDougal and Harold Lasswell*, 54 VA. L. REV. 662 (1968); *The Lasswell-McDougal Enterprise: Toward a World Public Order of Human Dignity*, 14 VA. J. INT'L L. 535 (1974).

[21] *See* ROBERT GOODMAN, LEGALIZED GAMBLING AS A STRATEGY FOR ECONOMIC DEVELOPMENT (Ctr. Econ. Development, U. Mass.-Amherst (1994)) [hereinafter CED REPORT]. This U.S. gambling study provides an authoritative analysis of the strategic economic costs of utilizing legalized gambling activities as a strategy for economic development:

> Gambling has grown in an ad hoc "copy cat" manner as states follow each others' leads, responding to revenue shortfalls and the fear that neighboring states or Indian tribes will

entire economic base.[22]

The strategic economic threat to the United States is immediate and should be addressed quickly before newly developing constituencies in the legalized gambling industry become widespread enough to dictate economic policy.[23] For example, the legalized gambling industry drafted a state constitutional referendum in Florida which aimed to "mandate" the introduction of casino-style gambling activities—even into communities which voted unanimously against such activities.[24] It is thereby not surprising that testimony presented

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> siphon off their gambling dollars. . . . Once gambling ventures are legalized and governments become dependent on their revenues, the future form and spread of gambling within a state becomes extremely difficult to control.

Id. at 16.

[22] *Cong. Hearing, supra* note 9, at 10 (oral testimony of Economics Professor Earl L. Grinols, University of Illinois). According to Professor Grinols, the threat exists because of the fact that:

> State representatives have no incentive to view gambling in terms of its overall effect on the country. To [states] it is a way to raise tax money—hopefully from people of neighboring States who will take their problems back home—even though the social costs for an additional dollar of tax raised through gambling is in the range of $3.50 per dollar raised, compared to only $1.45 for raising taxes the old fashioned way, by raising taxes.

Id.

[23] For an authoritative analysis supporting this recommendation, see CED REPORT, *supra* note 21, at 18. Many policymakers are concerned that legalized gambling interests have large budgets to support efforts to legalize various forms of gambling throughout the United States. For example, New Jersey has restrictions prohibiting political contributions from casinos. *Id.*

By comparison, in 1990 Illinois lifted its ban on contributions from racetracks and had no limitations on political contributions by interests promoting legalized gambling. All such contributions were legal. Between January 1, 1993 and April 10, 1994, the Chicago Sun-Times reported that Illinois Governor James "Edgar and state legislators . . . [had] received at least $674,772 from gambling interests," not including "tens of thousands of dollars in donations from lawyers, lobbyists and consultants who are representing gambling clients." Mark Brown & Ray Long, *Gambling: A Political Jackpot: New Funding Powerhouse Aids 2 in 3 Legislators*, CHI. SUN TIMES, Apr. 10, 1994, at 1A, 16A.

[24] *See* Martin Dyckman, *Misleading the Public*, ST. PETERSBURG TIMES, Nov. 1, 1994, at A13. Proposition 8 on the Florida ballot for November 8, 1994, would have initially allowed 47 casinos in Florida. The public relations tactics of the proponents for legalized casinos were criticized in the press for misrepresenting the effect and impact of Proposition 8. *Id.* For example, during the week of November 1, 1994, a commercial supporting legalized casinos in Florida ran with the identifier of a former "Chief Justice, Florida State Supreme Court (Ret.)" and read as follows:

> This is the State Constitution. As a chief justice of the Florida Supreme Court, I worked to uphold it. . . . When I wrote Proposition 8, Limited Casinos, I made sure that strict limits on the number of casinos were put right here. That means politicians won't have the authority to change or weaken the limits. Only you can put the limits in the Constitution by voting yes on limited casinos. And only a vote by you can change those limits. With Limited Casinos, you have the final say.

Dyckman, *supra*, at A13. According to one critical account in the press, "[t]he effect of the at the 1994 congressional hearing indicated that in the future franchised legalized gambling parlors may be as widespread as the fast-food hamburger chains are today.[25]

Thus, the gravamen of the 1994 hearing was that U.S. policymakers should heed the wake-up call to develop a national policy on increased legalized

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commercial—whether intended or not—[was] . . . to wrap . . . [the former chief justice's] sleazy new clients in his old judicial robes." *Id.* The account further noted that voters could easily take the justice's statement to mean that there could be slot machines on every street corner unless they voted *for* Proposition 8:

> The fact is that casino gambling is not only against existing Florida law but, in the opinion of Attorney General Bob Butterworth, against the present Constitution as well. The present limit on casinos is zero, 0, none. If voters fall for . . . [the former chief justice's] line, the new limit will be 47. That is a far cry from 0.
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> What's more, 30 of those casinos are reserved, forever, for the existing horse tracks, dog tracks and jai alai plants. Another, on Miami Beach, as well described by my colleague Jeanny Deam last weekend, is reserved for a millionaire German carpetbagger . . . , who maneuvered Roberts into a corner. These people would have a perpetual monopoly on 31 of the 47 licenses, and for . . . [the former chief justice] to cast that as a virtue in his scheme is for him to take the voters as blubbering fools. Finally, local voters who might not want casinos in their neighborhoods will have *NO SAY* if . . . [the former chief justice's] ingenious proposition is approved statewide.

Id.

Legalized gambling proponents reportedly hired firms to get this referendum question on the ballot at a cost of $2 to $3 per signature. *See, e.g., Casinos Group to Ante Up $5-Million for TV Ads*, ST. PETERSBURG TIMES, Jun. 28, 1994, at B4. The chairman of the casino drive reportedly said that "the proliferation of ballot initiatives has inflated the cost of professional petition peddlers to $2.25 a signature." *Id.* Placing Proposition 8 on the ballot required 429,428 certified signatures at a cost of approximately $3 million. *Id.*

The public relations budget for convincing the voters to approve this referendum question on November 8, 1994, was apparently $16.5 million—significantly more than the combined budgets of the two gubernatorial candidates, Jeb Bush and Governor Lawton Chiles. Louis Lavelle, *Voters Deal Loss to Casinos: Gambling Backers Lose Despite $16.5 Million Campaign*, TAMPA TRIBUNE, Nov. 9, 1994, at 1, 5 [hereinafter *$16.5 Million Campaign*]; *Casinos Gamble, and Lose, Again*, FLORIDA SUN, at A1, A6 ($16.7 million raised by casino proponents and $1.6 million raised by opponents).

Similar scenarios and multiple re-votes have occurred in other states:

> The proposal for casino gambling in Chicago has been defeated three times in Illinois, but the prognosis is that it will be brought up again and again until the gambling promoters succeed. . . . In spite of millions of dollars in gambling advertising, Missourians voted down a change to their constitution in April [1994] to allow games of chance, but the question is being put back on the ballot this fall, 6 months later. The phenomenon of staging multiple revotes [if gambling is defeated] is a scenario being played out in Detroit, Iowa and other places. . . . Is this good Government?

Cong. Hearing, supra note 9, at 10 (oral testimony of Economics Professor Earl L. Grinols, University of Illinois).

[25] *See Cong. Hearing, supra* note 9, at 9-10 (oral testimony of Economics Professor Earl L. Grinols, University of Illinois).

gambling activities.[26] Furthermore, the potential economic drain which the advent of legalized gambling activities has on the pre-existing economy is so large that states should be prohibited from questionable exemptions *de jure* of legalized gambling activities from common antitrust principles. At a minimum, a "foresightful national policy should be developed to counteract the false short term incentives for states to individually introduce gambling to their common long term harm."[27] A review of the strategic U.S. economy and the business-economic impacts of widespread legalized gambling activities supports these recommendations.

II. The Strategic U.S. Economic Base and the Business/Economic Impacts of the Legalization of Gambling Activities

In 1974, sixty-one percent of the U.S. public participated in legalized gambling activities;[28] at that time, the total legal wager was only $17.3 billion.[29] By 1993, however, the U.S. public legally wagered $394.3 billion,[30] approximately $150 billion more than the U.S. Defense Budget.[31] That year, the total U.S. consumer dollars "won" by legalized gambling operators as generated revenues amounted to $34.7 billion,[32] including $12.8 billion in gross revenues to the state lotteries.[33] In other words, the consumer dollars drained from pre-existing businesses and redirected toward—or "won" by—legalized gambling operators increased by 2,100% since 1974.[34]

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[26] *Cong. Hearing, supra* note 9, at 13 (statement of Hearing Chairman LaFalce, stating that "there is a crying need for a national policy.").

[27] *Cong. Hearing, supra* note 9, at 11 (written testimony by Econimics Professor Earl L. Grinols, University of Illinois).

[28] Henry R. Lesieur, *Compulsive Gambling*, SOCIETY, May/June, 1992, at 43, [hereinafter *Compulsive Gambling*].

[29] U.S. COMMISSION ON THE REV. OF THE NAT'L POL'Y TOWARD GAMBLING, GAMBLING IN AMERICA, 63-64 (U.S. Gov't Printing Off. 1976) [hereinafter COMM'N ON GAMBLING].

[30] Eugene M. Christiansen, *Handle up 17.12% to $394B; Revenue Up 14.2% to $34.7B*, INT'L GAMING & WAGERING BUS., Aug. 5, 1994, at 14, 15 [hereinafter *Handle Up*].

[31] OFF. MGM'T & BUDGET, BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1994 apps. 5 & 6 (budget authority is $250.7 billion, outlay is $265.2 billion for 1994).

[32] *Handle Up, supra* note 30, at 19 (table 2).

[33] *Id.* By comparison, worldwide lottery "sales" in 1993 were $83.7 billion. *Lottery Sales Worldwide Top $83.7B In '93*, INT'L GAMING & WAGERING BUS., May 5, 1994, at 1, 30 The United States was first in lottery "sales" with $25.3 billion followed by Germany ($9.7 billion), Japan ($6.3 billion), Spain ($5.5 billion), France ($5.5 billion), and Canada ($3.7 billion). *Id.* at 30.

[34] This presumes that the average percent (approximately 9%) of the amount legally wagered in 1974 or $1.57 billion was "won." In 1993, the amount "won" was $34.7 billion (a 14.2% increase from 1992). *Handle Up, supra* note 30, at 14, 19, table 2. Therefore the increase from 1974 to 1993 was approximately 2,100%. Of course, these numbers are not

If this trend continues throughout the United States, within a short period of time, these numbers—high as they are—could easily begin to increase exponentially. In addition, it has been estimated that the net economic effect could be equivalent to an additional recession every eight to fifteen years.[35] If this phenomenon were to combine with a regular cyclical recession, the U.S. economy could face double jeopardy.

In addition, a brief consideration of other U.S. economic data lends support to the suggestion noted earlier by economist Paul Samuelson that "gambling subtracts from the national income."[36] Specifically, in 1992, the most recent year for which statistics are available, the U.S. national income was reported at $4,837 billion[37] whereas the gross legal wager was $330 billion[38] and the gross revenues retained by the gambling industry were $29.9 billion.[39] Significantly, while the gross legal wager and gross industry revenues increased 8.4%[40] and 12%,[41] respectively, over the figures reported in 1991, the 1992 national income increased only 6.4% over the prior year.[42] Initially, these relative increases in the 1992 gambling totals may appear small when compared to the U.S. national income. However, they are actually quite significant; in fact, the gambling figures increased in proportional significance to the national income in 1992 because the U.S. gambling industry is presently growing more rapidly than any other industry in the United States.[43]

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adjusted for inflation.

[35] *See Cong. Hearing*, *supra* note 9, at 73 (written testimony of Economics Professor Earl L. Grinols, University of Illinois).

[36] SAMUELSON, *supra* note 2, at 425. Since 65% or more of the "gambling dollar" is wagered by 10% of the public, this market segment is theoretically wagering "beyond the limits of recreation" and would ostensibly constitute a fairly direct subtraction from the national income. For a preliminary analysis of the issues involving the percentages of the public who will gamble and how much, see *Economic Impacts*, *supra* note 18, at 60-61, 73-75, 77.

[37] BUR. ECON. ANALYSIS, U.S. DEP'T COMMERCE, SURVEY OF CURRENT BUSINESS, Jan. 1994, at 11 (1994) (table 1.14) That year, the gross domestic product was reported at $6,038 billion, and the gross national product was $6,046 billion. *Id.* at 10 (table 1.9).

[38] Eugene M. Christiansen, *The 1992 Gross Annual Wager of the U.S. Part I: Handle*, INT'L GAMING & WAGERING BUS., July-Aug. 1993, at 12, [hereinafter *Wager Part I*]. This figure amounts to seven percent of the U.S. national income.

[39] Eugene M. Christiansen, *The 1992 Gross Annual Wager of the U.S. Part II: Revenue*, INT'L GAMING & WAGERING BUS., Aug.-Sept. 1993, at 12, [hereinafter *Wager Part II*]. This figure amounts to .63% of the U.S. national income.

[40] *Wager Part I*, *supra* note 38, at 12.

[41] *Wager Part II*, *supra* note 39, at 12.

[42] The U.S. national income in 1991 was $4,544 billion. BUR. ECON. ANALYSIS, U.S. DEP'T COMMERCE, SURVEY OF CURRENT BUSINESS, Jan. 1993, at 10 (table 1.14). In 1992, it increased by 6.4% to $4,837 billion. BUR. ECON. ANALYSIS, *supra* note 37, at 11 (table 1.14).

[43] Richard Griffin, *Feeding Fans' Greed Could Save the Game*, TOR. STAR, Mar. 5, 1995, at B1.

Furthermore, although gambling has just begun to expand in earnest, its sales already equal approximately two and one-half percent of Gross Domestic Product.[44]

In any event, macro-economic theories and concomitant economic formulae do not address this growing phenomenon. With the policy changes in the former Soviet Union and elsewhere, the strategic U.S. economic base will also change rapidly in the next few years, and the U.S. Bureau of Economic Analysis (and its economic "multipliers"),[45] as well as other economic agencies will need to keep pace. Furthermore, U.S. policymakers should query whether an economy which is becoming so heavily influenced and dependent on legalized gambling activities—which involve "creating no new money or goods"[46]—is similar to the oil-dependent U.S. economy of the early 1970s, which was vulnerable to the 1973-74 Arab Oil Embargo.[47]

From a historical economic perspective, the "boom and bust" economic cycles created by legalized gambling activities appear throughout economic history, but the two most relevant and most recent occurred in the United States during the nineteenth century.[48] At the beginning of the 1800's, the United States had already interfaced its economic base with the gambling philosophy—primarily via lotteries.[49] While scandals provided a focus for gambling opponents,[50] these opponents had their positions bolstered by the socio-economic negatives which necessarily accompany legalized gambling activities. In most historical scenarios, these business/economic negatives were reflected in a decrease in the quality of life which translated into a loss of net jobs, the creation of large social problems, and the necessary increase in various taxes to address these problems.[51]

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[44] *Cong. Hearing*, *supra* note 9, at 73 (written testimony of Economics Professor Earl L. Grinols, University of Illinois).

[45] As of 1994, for example, the U.S. Bureau of Economic Analysis had no economic multipliers for the legalized gambling/riverboat industry. The CED Report indicated that the multipliers for legalized gambling activities are negative. CED REPORT, *supra* note 21, at 49-50; *see Cong. Hearing*, *supra* note 9, at 81 (statement of Professor John W. Kindt, University of Illinois).

[46] Samuelson, *supra* note 2, at 424.

[47] *See* John W. Kindt, *Investment Interdependence as a Potential Response by the United States to Future Arab Oil Embargoes*, 7 AUSTRAL. Y.B. INT'L L. 279 (1982).

[48] For a summary of the historical background involving the cyclical legalization and re-criminalization of gambling in the United States, see I. Nelson Rose, *The Impact Of American Laws On Foreign Legal Gambling*, 8 N.Y.L. SCH. J. INT'L & COMP. L. 129, 159-66 (1986) [hereinafter *Legal Gambling*].

[49] *Id.* at 159.

[50] *Id.* at 155, 159-63

[51] *See generally Economic Impacts*, *supra* note 18. The basic negative impacts do not change, although historical and demographical differences can provide for multiple variations.

Accordingly, most legalized gambling activities were re-criminalized in the 1820's and 1830's.[52] After the American Civil War, gambling activities once again became fashionable and followed the expanding frontier.[53] However, the same socio-economic problems occurred, and with recurring scandals as catalysts, virtually all gambling activities were re-criminalized by 1910.

The United States is now in a new, "third" wave of legalized gambling activities.[54] Cynics would argue that if the United States wished to improve its economic position relative to the rest of the world, it should re-criminalize practically all legalized gambling activities in the United States, but encourage U.S. companies to conduct their gambling activities in international markets.[55] While the ethical questions of pursuing this latter option are beyond the scope of this analysis, widespread legalized gambling activities are nevertheless theoretically crippling the national economy.

In the 1800's, the strategic economic/military consequences were less destructive and less absolute; but in the modern world, the United States and its allies cannot afford to experiment with their strategic economies by elevating legalized gambling activities to the level where a strategic economic "boom and bust" cycle[56] or a classic "speculative economic bubble"[57] could occur.[58] Unfortunately, because of the gambling industry and the vagaries of the U.S. legal system[59] which protects the scope and speed with which the political constituencies supporting the legalized gambling industry develop,[60] such experiments may already be so far advanced that they are beyond the control of U.S. policymakers.

Due to several large socio-economic negatives which are associated with legalized gambling activities but which neither occur in nor accompany other types of industries, it can be concluded that there are substantial business/economic reasons to believe that widespread (and even localized) legalized gambling activities are inherently recessionary in nature. These negatives include: modest increases in infrastructure costs,[61] relatively high increases in regulatory costs,[62] large costs to the criminal justice system,[63] and social-welfare and business-economic costs in the billions of dollars.[64] These business/economic costs can easily translate into recessionary pressures[65] and lost jobs from the rest of the economy;[66] significantly, these costs do not generally accompany other industries. Furthermore, the net creation of jobs claimed by the legalized gambling industry is at best a breakeven proposition,[67] and the evidence suggests that net job losses can easily occur[68]—primarily because "consumer dollars" are drained from the rest of the economy.[69] The literature frequently refers to this process as "cannibalization"[70] of the pre-existing economy—including the pre-existing "tourist" economy.[71] For example, a report from the Governor's Office in California reflected this transfer of dollars and its effect on the regional economy:

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[52] *Legal Gambling*, *supra* note 48, at 159.

[53] *Id.* at 159-60.

[54] *Id.* at 160-64.

[55] For a comparison of worldwide lottery sales, see *supra* note 33.

[56] CED REPORT, *supra* note 21, at 18.

[57] For example, the 1929 U.S. stock market scenario presents such a bubble. *See* PAUL A. SAMUELSON & WILLIAM D. NORDHAUS, ECONOMICS 204 (14th ed. 1992) ("Speculative Bubbles"); SAMUELSON, *supra* note 2, at 424-25. *See also Cong. Hearing*, *supra* note 9, at 71-73 (written testimony of Economics Professor Earl L. Grinols, University of Illinois).

[58] *See* Steven D. Gold, *It's Not a Miracle, It's a Mirage*, ST. LEGIS., Feb. 1994, at 28.

[59] *See generally* I. NELSON ROSE, GAMBLING AND THE LAW (1986).

[60] CED REPORT, *supra* note 21, at 18.

[61] *See id.* at 16; *Economic Impacts*, *supra* note 18, at 72; *Cong. Hearing*, *supra* note 9, at 46 (testimony of Jeffry L. Bloomberg, States Atty, Lawrence Co., S.D.).

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[62] *See* CED REPORT, *supra* note 21, at 16; *Economic Impacts, supra* note 18, at 72; *Cong. Hearing, supra* note 9, at 46 (testimony of Jeffry L. Bloomberg, States Atty, Lawrence Co., S.D.).

[63] *See, e.g.*, CED REPORT, *supra* note 21, at 16; *Economic Impacts, supra* note 18, at 72; *Cong. Hearing, supra* note 9, at 46 (Jeffry L. Bloomberg, States Atty, Lawrence Co., S.D.).

[64] *See, e.g.*, MD. DEP'T HEALTH & MENTAL HYGIENE, ALCOHOL & DRUG ABUSE ADMIN., TASK FORCE ON GAMBLING ADDICTION IN MARYLAND (1990) (Valerie C. Lorenz & Robert M. Politzer, co-chairs 1990) [hereinafter cited as MARYLAND REPORT]. For example, "[p]athological gamblers cost Maryland and its citizens about $1.5 billion annually in lost work productivity and embezzled, stolen or otherwise abused dollars." *Id.* at 2. "The total cumulative indebtedness of Maryland's pathological gamblers exceeds $4 billion." *Id.* Furthermore, untreated pathological gambling activities affects thousands of lives and costs Maryland billions of dollars. *Id. See also Cong. Hearing, supra* note 9, at 83 (statement of Valerie C. Lorenz, Ph.D., Compulsive Gambling Ctr.).

[65] *See, e.g., Cong. Hearing, supra* note 9, at 10 (oral testimony of Economics Professor Earl L. Grinols, University of Illinois) ("[T]he social costs for an additional dollar of tax raised through gambling is in the range of $3.50 per dollar raised, compared to only $1.45 for raising taxes the old fashioned way, by raising taxes.").

[66] *See, e.g., Cong. Hearing, supra* note 9, at 34 (statement of Congressman Richard H. Baker).

[67] According to a two-year study by Professor Robert Goodman at the University of Massachusetts, "[c]asinos 'suck money out of the local economy' away from existing movie theatres, car dealerships, clothing shops and sports arenas." James Popkin & Katia Hetler, *America's Gambling Craze*, U.S. NEWS & WORLD REP., Mar. 14, 1994, at 42-43, 46. *See also* CED REPORT, *supra* note 21, at 51-55.

[68] Grinols, *Bluff Or Winning Hand? Riverboat Gambling And Regional Employment And Unemployment*, 51 ILL. BUS. REV., Spring 1994, at 8-11 (indicating Illinois riverboats have not created a net increase in employment and may even have cost net jobs). Since gambling activities take jobs from the rest of the economy, the creation of jobs is an illusory claim. This principle is so basic that it is in the WORLD BOOK ENCYCLOPEDIA. WORLD BOOK YEAR BOOK 398 (1994) ("The employment increases resulting from most gambling operations are illusory."). *See also Cong. Hearing, supra* note 9, at 71 (written testimony of Economics Professor Earl L. Grinols, University of Illinois).

[69] This business/economic principle is another principle which is so basic that it is in the WORLD BOOK ENCYCLOPEDIA. WORLD BOOK YEAR BOOK 398-400 (1994). *See supra* note 68 and accompanying text; CED REPORT, *supra* note 21, at 49-50.

> In the midst of continued (and justified) concern over the emigration of businesses and productive taxpayers out of California, another, long-standing migration has been overlooked. That is the migration of *dollars* out of California to the casinos of Nevada. . . .
>
> Gambling by Californians pumps nearly $3.8 billion per year into Nevada, and probably adds about $8.8 billion—and 196,000 jobs—to the Nevada economy, counting the secondary employment it generates. This is a direct transfer of income and wealth from California to Nevada every year.[72]

As of 1993, not one of the fifty states had a plan concerning the statewide development of various legalized gambling activities.[73] The only baseline study was a 1976 federal report by the U.S. Commission on the Review of the National Policy Toward Gambling, entitled *Gambling in America*.[74] This 1976 report was apparently prompted by the proposed economic development of Atlantic City, New Jersey, via the legalization of land-based casino gambling. Considering that in general the Atlantic City economy has significantly worsened since 1976,[75] serious questions should be raised about extending this experiment nationwide.

Because some demographics can easily allow the initial profit margins of many legalized gambling activities to be extremely large,[76] it should be anticipated that major U.S. corporations are not only pursuing opportunities in the realm of legalized gambling activities, but also divesting themselves of their traditional business lines in some instances:[77]

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[70] CED REPORT, *supra* note 21, at 51; *Cong. Hearing, supra* note 9, at 87-88 (statement of Congressman Frank R. Wolf). *See also Cong. Hearing, supra* note 9, at 34 (statement of Congressman Richard H. Baker); *Cong. Hearing, supra* note 9, at 57 (statement of Professor Robert Goodman, Hampshire C.)

[71] *See, e.g.*, Press Release, Florida Dep't Com., Sept. 19, 1994 (summarizing the 1994 report by the Fla. Dep't Com.) ("A consistent result of the introduction of casino gambling has been the cannibalization of pre-existing tourism industry."). FLA. DEP'T COM., IMPLICATIONS OF CASINO GAMBLING AS AN ECONOMIC DEVELOPMENT STRATEGY (1994) [hereinafter cited as FLA. DEP'T COM. REPORT].

[72] CAL. GOV'S OFF. PLAN & RESEARCH, CALIFORNIA AND NEVADA: SUBSIDY, MONOPOLY, AND COMPETITIVE EFFECTS OF LEGALIZED GAMBLING ES-1 (1992).

[73] CED REPORT, *supra* note 21, at 16. In 1994, however, the Florida Department of Commerce issued a report which indicated that legalized casino-style gambling would "cannibalize" the pre-existing Florida economy. FLA. DEP'T COM. REPORT, *supra* note 71, at 5.

[74] COMM'N ON GAMBLING, *supra* note 29.

[75] *See generally* GEORGE STERNLIEB & JAMES W. HUGHES, THE ATLANTIC CITY GAMBLE 95-110 (1983).

[76] For example, the largest hotel in the United States, the Excalibur in Las Vegas, "stunned market analysts by announcing it had already paid off. . .[its] mortgage from operating revenues" in less than two years. James Coates, *Vegas' Tip to Chicago: Casino Is Family Fun*, CHI. TRIB., Apr. 10, 1992, §1, at 1, 10. *See, e.g.*, Mary Ellen Podmolik, *Empress Investors Win Big*, CHI.

> As growing numbers of people work in the gambling industry, and come to be economically dependent on it, new pro-gambling constituencies will develop to protect these jobs. This will make gambling ventures difficult for government to curtail or terminate.[78]

State and local governments are already utilizing taxpayer dollars to subsidize, and even maintain, some legalized gambling operations. This trend is projected to intensify and create new economic problems:

> A major result of market saturation has been a tendency towards more lax government gambling regulation and public subsidies to help competing private gambling operations survive. There are likely to be serious economic and social costs to communities as the result of this boom and bust type of development.[79]

Furthermore, state and local governments have been enticed by the initial tax revenues without considering the social and economic consequences:

> Funding specific state programs with gambling revenues has tended to make them gambling-dependent. It has also tended to make those groups who benefit from them part of pro-gambling political constituencies.[80]

In this context, the main benefits allegedly generated by increased legalized gambling activities include not only new tax revenues, but also new jobs and positive economic development. The potential profit margins are so large that companies will invest millions of dollars to encourage the legalization of gambling activities in various states.[81] In 1994, for example, at least $16.5 million was spent in a losing campaign to bring casino gambling to Florida,[82] and at least $15 million was spent during two years on campaigns (including $8 million in the 1994 winning campaign) to bring video gambling terminals to Missouri.[83] In 1992, approximately $5 million[84] was spent by

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SUN TIMES, Apr. 28, 1994, at 5 (almost 300% return on investment within 6 months for the Empress riverboat in Illinois).

[77] *See generally* DAVID JOHNSTON, TEMPLES OF CHANCE: HOW AMERICA INC. BOUGHT OUT MURDER INC. TO WIN CONTROL OF THE CASINO BUSINESS (1992).

[78] CED REPORT, *supra* note 21, at 18.

[79] *Id.*

[80] *Id.*

[81] *See, e.g.*, *$16.5 Million Campaign*, *supra* note 24.

[82] *Id.*

[83] *Slot Games In*, *supra* note 17, at 6 ($15 million spent within two years by riverboat gambling proponents).

[84] *See, e.g.*, Patrick T. Reardon & Rick Pearson, *Casino Firms Say Patience Tapped Out*, CHI. TRIB., Dec. 4, 1992, §2, at 1, 7 ($5 million). *See also* Stephen F. Simurda, *When Gambling*

three companies to promote the possibility of a $2 billion casino complex in Chicago.[85] However, skeptical economists emphasize that "any" influx of money to a community will create the appearance of economic development, and the socio-economic costs should not be overlooked.[86]

Several studies by the gambling industry allegedly bolster the claims of economic benefits, and to examine these claims the Ford Foundation and the Aspen Institute funded a comprehensive 1994 report by the Center for Economic Development at the University of Massachusetts, which was entitled *Legalized Gambling as a Strategy for Economic Development* (CED Report).[87] The CED Report analyzed fourteen industry studies, and in general, was highly critical of them.[88] Emphasizing that no state had a comprehensive development plan which analyzed legalizing gambling activities,[89] the CED Report concluded that "hiding the costs"[90] was apparently widespread and that legalizing gambling activities acted as economic "cannibalism"[91] on the pre-existing economy and on other businesses.[92]

In the social-welfare context, legalized gambling is widely-accepted as constituting a regressive tax on the poor.[93] In other words, governmental policies directed toward "legalizing" and encouraging gambling activities make poor people poorer and intensify many pre-existing social-welfare problems.[94] These socio-economic negatives are calculated to be extremely costly, and they parallel the negatives associated with alcohol and drug addiction.[95] Substantial changes and, in many instances, unpredictable consequences can be anticipated throughout the insurance industry (i.e., increased fraud in the

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Comes To Town, COLUM. JOURNALISM REV., Jan.-Feb. 1994, at 36, 36 ($2 million spent to promote approval of a casino in Connecticut) [hereinafter cited as COLUM. JOURNALISM REV.].

[85] For a positive analysis of the Chicago proposal, see CHICAGO GAMING COMM'N, ECONOMIC AND OTHER IMPACTS OF A PROPOSED GAMING, ENTERTAINMENT AND HOTEL FACILITY (May 19, 1992). *Contra*, BETTER GOV'T ASSOC., STAFF WHITE PAPER: CASINO GAMBLING IN CHICAGO (1992) (a comprehensive and well-documented report) [hereinafter cited as BETTER GOV'T ASSOC. REPORT].

[86] *See generally* BETTER GOV'T ASSOC. REPORT, *supra* note 85 (introductory statements by BGA President William Lear and Exec. Dir. Terrence Brunner).

[87] CED REPORT, *supra* note 21.

[88] *Id.* at 16-19.

[89] *Id.* at 16.

[90] *Id.*

[91] *Id.* at 18, 39, 51. *See also* Gold, *supra* note 58, at 30.

[92] Gold, *supra* note 58, at 30.

[93] *See, e.g.*, CHARLES T. CLOTFELTER & PHILIP J. COOK, SELLING HOPE (Nat'l Bur. Econ. Research, Harvard Univ. Press 1989).

[94] *See Economic Impacts, supra* note 18, at 61-70.

[95] *See* Durand F. Jacobs, *Illegal and Undocumented: A Review of Teenage Gambling and the Plight of Children of Problem Gamblers in America*, in COMPULSIVE GAMBLING: THEORY, RESEARCH, AND PRACTICE 249, 252 (Howard J. Shaffer et al. eds., 1989).

billions of dollars),[96] the banking industry (i.e., extended credit losses)[97] and the general business community, including, for example, increased personnel costs,[98] lost work productivity,[99] and bankruptcies.[100]

In the national media, the cost/benefit debate involving increased legalized gambling has been growing in scope. As this trend continues, a 1994 article in the Columbia Journalism Review cautions the news media to "flat out ask [experts, academics, and even other reporters] if they make money off the industry."[101]

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[96] *Compulsive Gambling, supra* note 28, at 45 (In 1992, insurance fraud due to legalized gambling activities was estimated at $1.3 billion.); *see also* Henry R. Lesieur & Kenneth Puig, *Insurance Problems and Pathological Gambling*, J. GAMBLING BEHAV., Summer 1987, at 123.

[97] One interesting trend consists of legalized gaming establishments extending credit to customers. Having just been authorized in 1991, the Illinois riverboats during 1993 were already legally extending $115 million in credit. Toby Eckert, *Riverboats Give Gamblers $115 Million in Credit in '93*, PEORIA J. STAR, Apr. 17, 1994, at A1.

[98] Many of these increased personnel costs can be directly attributed to calculable increases in compulsive gamblers caused by the legalization of gambling activities. "Average" compulsive gamblers are those compulsive gamblers in the intermediate stage of gambling addiction. By comparison, the larger social costs are reflected in those compulsive gamblers who are in the later stages of gambling addiction and have "bottomed-out." ROBERT M. POLITZER ET AL., REPORT ON THE SOCIETAL COST OF PATHOLOGICAL GAMBLING AND THE COST-BENEFIT/EFFECTIVENESS OF TREATMENT at 9, 10 (1981). *See also* MARYLAND REPORT, *supra* note 64, at 2, 59-61. It should be noted that virtually all of these estimates are based on male subjects as recorded in the MARYLAND REPORT. When adjusted for inflation as of 1992, the $52,000 per year cost for each compulsive gambler increases to $53,000 per year. BETTER GOV'T ASSOC. REPORT, *supra* note 85, at 14.

"Abused dollars" are defined as: "[e]stimates of the average annual amount obtained legally and/or illegally by the pathological gambler which otherwise would have been used by the pathological gambler, his family, or his victims for other essential purposes. These abused dollars include earned income put at risk in gambling, borrowed and/or illegally obtained dollars put at risk in gambling, borrowed and/or illegally obtained dollars spent on basic needs and/or provided to the family which otherwise would have been used for gambling, and borrowed and/or illegally obtained dollars for the partial payment of gambling related debts." POLITZER ET AL., *supra*, at 9, *as cited in* BETTER GOV'T ASSOC. REPORT, *supra* note 85, at 15.

[99] "Lost work productivity" equates to the sociological concept of "lost productivity" and is defined as "[e]stimates of percent of time *not* engaged in the production of goods and services for which the individual was employed, multiplied by the average gross annual salary." POLITZER ET AL., *supra* note 98, at 8 (emphasis in original), *as cited in* BETTER GOV'T ASSOC. REPORT, *supra* note 85, at 15. Characteristic problems of the compulsive gambler include "inattention to work," pursuant to the American Psychiatric Association's DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 324 (3d ed. rev. 1987) [hereinafter DSM-III].

[100] Significant increases in bankruptcies occurred in South Dakota after the advent of legalized gambling activities, particularly casino gambling and video lottery terminals (VLT's) in 1989. *See* Todd Nelson, *S.D. Bankruptcies Down 5 Percent: Judge: Gambling Caused Most Cases*, ARGUS LEADER, Jan. 15, 1993, at 1.

[101] COLUM. JOURNALISM REV., *supra* note 84, at 37-38.

Instinctively, several prestigious U.S. business groups have responded to these concerns. For example, in September of 1993, the eighty-five member Greater Washington, D.C. Board of Trade unanimously rejected the Mayor's proposal to bring casino-style gambling to Washington, D.C.[102]

The gravamen of much of this debate is that state governments, by legalizing gambling activities, are creating large socio-economic problems which did not previously exist. It is well-established that by "legalizing" gambling activities (the "acceptability factor") and making those activities available to the public (the "accessibility factor"), state governments are creating a new population of addicted gamblers—a recognized addictive activity pursuant to the American Psychiatric Association (APA),[103] with parallels to alcohol and drug addictions.[104] From a baseline of .77%,[105] the percentage of the adult population who are compulsive gamblers can easily rise to between 1.5 and 5% once gambling is legalized.[106] The percentage of teens who become compulsive gamblers generally ranges between four and six percent, but this range appears to be increasing.[107]

It is significant that compulsive gambling will probably hover at approximately .77% of the population[108] no matter what ethicists and governments do to eradicate or solve this problem. However, the interesting statistic is that once state governments *legalize* gambling—once gambling receives the *imprimatur* of government and becomes not only "sociologically acceptable" but also is advertised as such—the number of compulsive gamblers will increase from .77% to between 1.5 and 5% of the population. Thus, in a state with a population of 10 million, the number of compulsive gamblers would increase from 77,000 to between 150,000 and 500,000. There is some debate about how fast this increase will occur, but it will definitely occur. For example, in South Dakota[109]—which had no legalized gambling per se before the state lottery in 1987, but which initiated more legalized gambling in October 1989 via land-based casinos and video-lottery terminals (VLT's)—the best data strongly suggests that an additional one percent of the population (approximately 7,000 people)[110] became "addicted" within two years. These numbers include the adolescent population, which is already reflecting twice the addiction rate of the adult population.

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[102] Liz Spayd & Yolanda Woodlee, *Trade Board Rejects D.C. Casino Plan*, WASH. POST, Sept. 25, 1993, at A1.

[103] DSM-III, *supra* note 99, § 312.31 (Pathological Gambling).

[104] *See* Jacobs, *supra* note 95, at 252.

[105] COMM'N ON GAMBLING, *supra* note 29, at 73.

[106] For a table showing prevalence rates of problem and probable pathological gamblers at between 1.7 and 6.9% for adults, see ALTA. LOTTERIES AND GAMING, GAMBLING AND PROBLEM GAMBLING IN ALBERTA at 18 (1994) (Native Americans in one study equaled 14.5%).

[107] *Id.* (showing prevalence rates between 3.6 and 12.4% for teenagers); BETTER GOV'T ASSOC. REPORT, *supra* note 85, at 30 (between 4 and 15% of high-schoolers are "problem gamblers"—not to be confused with "compulsive gamblers" which are subsumed in the category of "problem gamblers"). For analyses of compulsive and problem gambling among teenagers, see Jacobs, *supra* note 95, at 252 (reporting five studies). *See also* Robert Ladauceur & Chantel Mireault, *Gambling Behaviors Among High School Students in the Quebec Area*, 4 J. GAMBLING BEHAV. 3 (1988); Henry R. Lesieur & Robert Klein, *Pathological Gambling Among High School Students*, 12 ADDICTIVE BEHAV. 129 (1987). *See generally* Michael L. Frank, *Underage Gambling in Atlantic City Casinos*, 67 PSYCHOL. REP. 907 (1990). Clinical Professor of Psychiatry Durand Jacobs of the Loma Linda University Medical School sets the overall percentage of teenage compulsive gamblers at 4 to 6%.

[108] COMM'N ON GAMBLING, *supra* note 29, at 73. This study apparently provides the most authoritative historical baseline in this as well as other gambling-related issue areas. It should be noted that there are considerable definitional debates regarding what constitutes a "compulsive or pathological gambler," a "probable compulsive gambler," and a "potential compulsive gambler." The South Oaks Gambling Screen (SOGS) appears to be the most generally accepted current mechanism for delimiting these categories. Henry R. Lesieur & Sheila B. Blume, *The South Oaks Gambling Screen (the SOGs): A New Instrument for the Identification of Pathological Gamblers*, 144 AM. J. PSYCHIATRY 1184 (1987).

The social, business, economic and governmental costs of this phenomenon are potentially catastrophic. The average socio-economic cost per compulsive gambler per year has been calculated at $53,000.[111] Therefore, by "legalizing" land-based casino gambling and VLT's, the South Dakota legislature has created, within two years, an additional $371 million per year in economic and social costs to its citizens. The negative numbers generated by this phenomenon are so large that they demand to be checked and rechecked, but even if they are smaller by half,[112] the negative numbers are significant enough to predict major problems for U.S. society, business and government.

III. CONCLUSION

Throughout the twentieth century, the U.S. economy has operated within a type of pristine economic environment uncontaminated by widespread legalized gambling. However, because pro-gambling philosophies are spreading rapidly throughout the United States, and the governmental infatuation with legalized gambling is so pervasive, the impacts of legalized gambling will soon be felt throughout the local, state and federal governmental systems—regardless of whether a particular state has or has not legalized a particular form of gambling. Academic disciplines will change and the standard economic formulas will have to be modified to accommodate the economic impacts of the gambling industry. Education will suffer both philosophically and fiscally as educational budgets are redirected toward addressing the increasing social-welfare costs.

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[109] South Dakota has a population of 700,000 people. U.S. BUR. CENSUS (1993).

[110] *Economic Impacts*, *supra* note 18, at 74.

[111] *See* BETTER GOV'T ASSOC. REPORT, *supra* note 85, at 14 ($53,000/yr. is adjusted for inflation in 1992 dollars) (*citing to* POLITZER ET AL., *supra* note 98). By 1994 the range of cost estimates began to fluctuate between $13,200 and $53,000, with most estimates beginning to group around $13,200 to $35,000. *See Cong. Hearing*, *supra* note 9, at 80 n.12 (statement of Professor John W. Kindt, University of Illinois) (citing studies)

[112] *See supra* note 111 and accompanying text.

The criminal justice system will incur not only increased costs, but the types of crimes will change to redress new forms of misconduct like gamblers unfairly beating the odds or "cheating" the legalized gambling operations. Financial institutions and banks will experience rapid and perhaps destabilizing impacts as pre-existing assets and large proportions of fixed consumer assets are diverted into legalized gambling activities. Bad debts and increased insurance fraud are projected to increase significantly.[113]

If the gambling trends of the 1990's continue, the negative impacts of gambling activities will prolong recessionary trends and slow recoveries in local, state and national economies. The economic history of the United States has indicated that the U.S. public has intermittently flirted with gambling and repeatedly rejected it as economically and sociologically unworkable. Legislators who forget this economic history and promote legalized gambling are subject to being criticized as mere mechanics.[114] Those who forget the economic lessons of history are condemned to relive them.[115]

If the U.S. public liked the "War on Crime" and the "War on Drugs," the public will be enthralled with the forthcoming "War on Gambling."[116] The tragedy is that unlike the first two "wars" on social ills, the "War on Gambling" can still be avoided—simply by not decriminalizing or otherwise legalizing gambling activities. In other words, it will take affirmative government action to magnify a minor social ill into a major socio-economic problem.

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[113] *See supra* notes 96-97 and accompanying text.

[114] This statement is a paraphrase of "[a] lawyer without history or literature is a mechanic. . . ." Guy Mannering, *as quoted in* J. BARTLETT, FAMILIAR QUOTATIONS 520 (14th ed. 1968).

[115] *Id.* at 507. While this phrase has been paraphrased by many authors, it probably originated with historian Georg Hegel.

[116] *See* John W. Kindt, *Increased Crime and Legalized Gambling Operations: The Impact on the Socio-Economics of Business and Government*, 43 CRIM. L. BULL. 538, 538-39 (1994). For an authoritative 1994 reaffirmation of the principle that increased crime accompanies legalizing gambling activities, see FLA. DEP'T L. ENFORCEMENT, THE *QUESTION* OF CASINOS IN FLORIDA: INCREASED CRIME: IS IT WORTH THE GAMBLE? (1994).

> As this report reflects, it has been clearly demonstrated in other jurisdictions that a significant *increase in crime* and its consequences accompanies casino gambling. FDLE joins a large number of other criminal justice entities in *opposition to any form of legalized casino gambling*.

Id. at 2. *See also* COMM'N ON GAMBLING, *supra* note 29, at 1; N.J. REPORT AND RECOMMENDATIONS OF THE GOVERNOR'S ADVISORY COMM'N ON GAMBLING 19 (1988).

Governmental officials are increasingly being enticed to accept and then impose upon the public those discredited economic philosophies which claim that gambling activities increase jobs, foster economic development, and generate new tax revenues—all without raising taxes on the electorate. In reality, the regional and strategic impacts of legalized gambling almost invariably result in a net loss of jobs, increased taxes, and a negative economic spiral which is inherently recessionary.

In 1988, the national societal costs of alcohol abuse were calculated at $120 billion, and the costs of other substance abuse were calculated at $60 billion.[117] By comparison, the national societal costs for compulsive gambling were calculated at $80 billion and were found to be increasing rapidly;[118] however, unlike alcohol and substance abuse, the costs of compulsive gambling are less obvious because the abused substance is money,[119] and some of these costs translate into lost work productivity.

In practically all disciplines, the strategic negatives associated with gambling activities are so large that the conclusions in this analysis might seem somewhat alarmist. The strategic figures, however, appear to constitute the best evidence available within those parameters which academic authority can establish at this juncture in business-economic history. As confirmed by the 1994 CED Report,[120] the Florida Department of Commerce Report,[121] and the 1994 congressional hearing,[122] the gambling adherents have little solid data or authority supporting their statements about the many alleged social benefits of legalized gambling activities.[123]

Regardless of these considerations, it appears to be widely-accepted that U.S. economic strength constitutes a *sine qua non* of worldwide economic stability. Any industry which has a growth rate as substantial as that of the legalized gambling industry and which has the potential to cannibalize the pre-existing economy with a potential negative multiplier effect[124] needs to be closely examined. At a minimum, a national commission to investigate the economic claims of the industry is necessary. In the interim, prudent strategic national policy necessitates that there be a federal moratorium on any increases in the various forms of legalized gambling activities or increases in its geographical expansion.

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[117] MARYLAND REPORT, *supra* note 64, at 60.

[118] *Id.* at 59.

[119] *See id.* at 20-28.

[120] CED REPORT, *supra* note 21, at 16-19.

[121] FLA. DEP'T COM. REPORT, *supra* note 71, at 2, 5-6.

[122] *See* CONG. HEARING, *supra* note 9 *passim*.

[123] BETTER GOV'T ASSOC. REPORT, *supra* note 85, at 2-21.

[124] See *supra* notes 45, 90-92 and accompanying text.

APPENDIX 12.—STATEMENT OF ARNIE WEXLER, PRESIDENT, ARNIE & SHEILA WEXLER ASSOCIATES

My name is Arnie Wexler and I am the president of Arnie and Sheila Wexler Associates . We do trainings, educational seminars, consultations , evaluations and treatment services for , and about compulsive gambling. I have been involved in trying to raise public awareness on this issue for over 27 years. I am a recovering compulsive gambler and placed my last bet on April 10,1968 and know what kind of destruction compulsive gambling can do to the compulsive gambler, their family and everyone else they come in contact with.

In the eight years that I was the Executive Director of the Council on Compulsive Gambling of New Jersey, and running the 1-800-GAMBLER hotline, I have spoken to more compulsive gamblers than anyone else in America. We received over 35,000 hotline calls in 1994. It was at the end of that year that I resigned my position in order to travel the country to educate the public sector and the professional community on the subject of compulsive gambling.

As my wife and myself have traveled the country we met hundreds of people who were brought to their knees as the result of compulsive gambling. Some had lost their family farms and businesses in places like North Dakota and Minnesota. Others talked about embezzlements or white collar crimes by employees who had a gambling problem. In Mississippi we heard about suicides at the Air Force base and bank robberies that were occurring from the time that legalized gambling began in their state. There is a woman in Louisiana who killed her parents in order to get money to pay off video poker debts. In Memphis we heard about the widow , with two young daughters, whose husband committed suicide as the result of compulsive gambling. I remember the call from a 14 year old girl, who was selling drugs in order to support her gambling addiction, and the 19 year old who was selling her body. I remember working with a major league baseball player who made $800,000 and couldn't pay a gambling debt of $25,000. There is an ex Quarterback at the NFL, who is now incarcerated because of writing bad checks in order to support his gambling addiction. I know a 72 year old man , who owes $140,000 and only gambled on lottery tickets. I know of many cases of people who are in federal prison because of a gambling addiction.

Compulsive gambling is cutting across all segments of society , today, in America. Two weeks ago, I spoke in a major University to their students about gambling. I have spoken in many colleges over the years and found a very large percentage of students are gambling both legally, and illegally. More than 10% already have a gambling problem. There has been a tremendous rise in the numbers of young people seeking help in the last few years. In fact at the 1-800-GAMBLER hotline, more than 10% of their calls in the last few years have come from young people , under the age of 21. I think it would be very educational for every person on the Judiciary committee to read the three part series in Sports Illustrated on "The Campus Gambling Epidemic" , dated April 3, 10 and 17th of 1995.

Senior citizens is another segment of the population that is reporting a considerable increase in problem gambling.

Female gamblers are coming out of the woodwork, reporting a compulsive gambling problem. There are more female compulsive seeking help, today, than ever before in the history of this country. Call to the 1-800-GAMBLER hotline have been increasing on a consistent basis and last year peaked at 25% of all calls for help.In fact, when I was on the Oprah Winfrey show we received almost 5000 calls in one day and more than 50% of those calls were from females.

This country is exploding with a major compulsive gambling epidemic and as we sit around and do nothing, this problem will only get larger and destroy more lives in this country. I believe that the reason we have not seen anything done, federally, on the issue of compulsive gambling is because this is a hidden and invisible addiction. We need to seek a way to address this issue that effects millions of Americans. Knowing what compulsive gambling can do to people and thier families, I strongly urge Congress to create the National Gambling Impact and Policy Commission (HR 497).

TOPICS & COMMENTARY

VOLUME 1, NUMBER 1. THE NEW HOPE FOUNDATION AUTUMN 1990

COMPULSIVE GAMBLING

The Addiction Connection

Sheila Wexler, CAC, CCGC, the author, is the Deputy Director of The New Hope Foundation and a recognized expert on compulsive gambling.

Compulsive gambling is a progressive disease in which an individual has an uncontrollable preoccupation and urge to gamble. The compulsive gambler is driven to gamble in the same way an alcoholic needs a periodic drink or a drug addict needs a "fix". This results in excessive gambling, the outcome of which is the loss of productive time and money. Eventually the gambling compromises, disrupts and destroys the gambler's personal life, family relationship, and vocational persuits. To the compulsive gambler the need to bet is no longer a little action or the illusion of a quick or easy profit. It becomes a matter of life and death. Unlike the alcoholic or the drug addict, he does not reveal signs of his addiction on his breath nor by tracks on his arm. He appears to be no different from the average responsible citizen. However, the compulsive gambler suffers from a serious disease; and because of the nature of that disease, it is likely that the illness cannot be discovered until it is in its advanced stages.

According to the Council on Compulsive Gambling of New Jersey, there are more than 375,000 residents in New Jersey who suffer from this disease. In 1985, the staff here at New Hope began to address the fact that many of the clients we were seeing for alcoholism and drug addiction also had a problem with compulsive gambling. We began to use the South Oaks Gambling Screen. This is a diagnostic test used to determine the various stages of gambling addiction. Since that time, we have consistently found approximately 30% of our clients who were admitted for alcoholism and drug addiction had a compulsive gambling problem. In many of those cases, gambling was a co-addiction, and in some of those cases gambling was, in fact, the primary addiciton. We began to expand our already existing programs to include specialized programming that focused on the compulsive gambling issue; and by January of 1988 the New Hope Management Team and the Board of Trustees decided to set aside a certain number of beds in order to treat compulsive gamblers (even those who did not have an alcoholism or drug addiciton diagnosis). Several staff members received special training and some have gone on to become Certified Compulsive Gambling Counselors. Programming continues to expand in both In-patient, Out-Patient and our family program.

HAPPY, SOBER !
to GET TO MY BOOKIE ON TIME!

In our In-Patient Program (since January of 1988) we have admitted approximately 40 clients whose primary diagnosis was compulsive gambling. Although we are very proud of the service that we are able to offer, there were many more potential clients who were turned away due to lack of funding and, therefore, lack of ability to pay for services. New Hope has traditionally offered services to those who can least afford to pay for services; so it is not surprising that New Hope has opened its doors to this population that so desperately needs services in the State of New Jersey.

However, we have only just begu There is so much more to be done and so many more people who ne our help. Without proper funding and support of State legislators an other health care agencies throughout the State, compulsive gamblers will go on being known "victims of a hidden disease." Hopefully, someday soon, more services will be available to the suffering compulsive gamblers an their families.

The Asbury Park Press reported that alcohol consumption in Atlantic City's Casinos is down only slightly in spite of a ruling by U.S. District Judge Mitchel Cohen that states that casinos could be held liable for a gambler's losses if the gambler was drunk.

The number of free drinks served from 1988 to 1989 is down, in support of casino officials cited, who claimed that they are taking notice and cutting off those appearing intoxicated, but not all are convince that the casinos are doing all that they can. Arnie Wexler, Executive Director of The New Jersey Council on Compulsive Gambling is quoted as saying, "It's to the casinos advantage to pump somebody full of alcohol. About 3 out of every 10 people undergoing drug or alcohol abuse treatment have a gambling problem."

Beating the odds

Asbury Park Press Sunday, Sept. 24, 1995

Story by LAURENCE ARNOLD

Arnie and Sheila Wexler were on the fast track to trouble. Compulsive gambling was ruining their lives and destroying their marriage. Now, nearly 30 years after they hit bottom, they're putting their experiences to work to help others.

Talk to Arnie Wexler about compulsive gambling and he'll tell you his life story.

Wexler can vividly describe his slide through the four stages of a compulsive gambler's ruination — from a giddy, confident winning stage through a dark, obsessive, lie-filled, losing phase to desperation and emotional breakdown — to the low point in his life.

It was Feb. 2, 1968, at 3 a.m. His wife, Sheila, was in a hospital bed suffering through a miscarriage. So afraid was Wexler to reveal the depths of his destructive compulsion that all he could think was, "God, make her die."

When Sheila Wexler recalls the first seven years of their marriage, she traces her own path through a four-step plunge that can afflict the spouse of a compulsive gambler — denial, stress, exhaustion, breakdown. Her physical and emotional deterioration was so profound it left her unable to leave her home.

Studying Arnie and Sheila Wexler is like studying the little-understood curse of compulsive gambling, and vice versa. Their lives are a case study of a sneaky, debilitating disease that many predict will soon receive the type of attention now afforded drug and alcohol abuse.

The Wexlers did more than survive. Somehow they prospered from their struggle with compulsive gambling and have used the experience to enrich their marriage and create successful careers. Now, through lectures, counseling sessions and training programs, they are baring their most intimate, painful experiences and frailties as a living textbook for others.

"The joy of being together and being alive and having survived this, it just radiates from them," said Skip Mattie, chief executive officer of the New Hope Foundation in Marlboro Township, which created the state's first in-patient treatment program for compulsive gamblers after prodding by Sheila Wexler. "That's a message that they carry. They are an example of what can happen."

Choosing their battles

A bright June morning finds Arnie Wexler, 57, in jeans and a T-shirt, sipping water from a mug and eating a bagel. A block away from the Wexlers' cozy Bradley Beach home, the Atlantic Ocean laps against the coast.

Sheila Wexler, 52, is taking her regular brisk morning walk, but her husband's mind is on matters other than the summer sun.

"You missed a beauty," he declares to a visiting reporter. "I just had the Casino Control Commission on the phone. Look what they passed last week."

Wexler is studying the Casino Chronicle, a weekly newsletter on the gambling industry. He points to an item reporting that the Casino Control Commission has made it easier for casinos to extend credit to visitors.

"Now they're so anxious to get the money faster, they're doing this," he declares in his Brooklyn accent. "I think it's wonderful." Sarcasm drips from his voice.

Though Wexler is an inveterate thorn in the side of New Jersey's $6 billion-a-year gambling industry, he is no extremist.

"I believe casinos and legalized gambling are here to stay," he says. "My main concern is, I want to help compulsive gamblers. And I think you have to work within the system to help them."

There are an estimated 10 million to 12 million compulsive gamblers in America and 400,000 in the state, according to the Council on Compulsive Gambling of New Jersey, which Wexler headed until last year.

Nationwide, there are more than 665 casinos and gaming operations in 23 states. In New Jersey, the myriad choices for legal gambling are Atlantic City's 12 casinos, five racetracks, more than 5,300 lottery terminals, numerous bingo operations and boardwalk amusement games.

New Jersey had a monopoly on casino gambling in the New York metropolitan area for many years. But Connecticut's first casino opened in 1992, New York Gov. George Pataki has floated the idea of legalizing casinos in his state, and Pennsylvania may hold a referendum on whether to allow riverboat gambling near Philadelphia.

② Against this strong tide in favor of expanded gambling, Wexler picks his battles carefully. He has had two priorities: securing state aid to support the Council on Compulsive Gambling, and publicizing the council's 24-hour hot line (1-800-GAMBLER) for chronic gamblers.

In a less public way, Sheila Wexler has been a tenacious combatant in the battle against compulsive gambling, focusing on the need for treatment programs.

A gambler since childhood

In marriage and in public, Arnie and Sheila Wexler are an intriguing match.

She's the erudite educator, the subdued clinician. He's the lobbyist, the schmoozer, with a million contacts and a bottomless supply of anecdotes.

He has countless stories about people he knows, but can't remember whether he met them in North Dakota or Mississippi. No, no, Sheila corrects him: It was in Vermont.

Their differences were a factor in their initial attraction.

Sheila Freeling grew up "painfully shy," the only child of a financially struggling family in the Bronx. She was looking for a guy with money and, she says now, "a grip." At age 15, she met 20-year-old Arnie Wexler of Brooklyn while vacationing with her parents in the Catskill Mountains.

Arnie Wexler is amazed when his wife recalls him as someone with "a grip." In fact, he says, "when I would go near a girl, my hands would sweat, my chest would pound." It wouldn't be the first time Sheila would fall for Arnie's confident facade.

They became engaged on Sheila's 17th birthday and were married a year later, in 1961. By then, unbeknownst to the bride, 23-year-old Arnie was a deeply hooked gambler.

It had started, he says now, at age 7, when he pitched pennies, shot marbles, flipped baseball cards and played pinball. All kids played such games, but few could get "juiced up" the way Arnie says he did from the "bing! bing!" of a pinball machine.

By 14 or 15 he was placing bets with bookmakers and going to the racetrack. His first big win was at age 14 at Roosevelt Raceway. He walked out that day with $54 at a time he was earning 50 cents an hour after school working in the garment district.

At 17, he started stealing dresses from his employer to feed his addiction. He had no intention of going to college. He would work, use his money for gambling and be a millionaire by the time he was 30.

"I many times said to myself, 'I'm gonna stop gambling,' and I couldn't," Arnie recalls. "I didn't know that I couldn't, but I couldn't."

"To say I didn't know gambling was a problem is naive," Sheila tells audiences now. "I knew that he liked to gamble, and that he had some money problems. What I believed more than that, however, was that with my love and undying affection for him, there'd be no need for him to do any of this anymore ever again."

He'd bet on anything

Not only did Arnie succeed in holding down his job as manager of a dress manufacturing plant in northern New Jersey, he used it to feed his addiction. He recruited some of the 300 to 400 employees to steal for him and run games of cards and craps.

When daughter Stacy was born in 1964, Arnie drove to the track twice during Sheila's 37 hours of labor. When he learned his daughter weighed 7 pounds, 1 ounce, he called his bookie and bet 7 and 1 in the daily double at Roosevelt Raceway — and won.

"I was the kind of gambler that would gamble on anything," Arnie says. "I would gamble on two cockroaches coming out from under this carpet. I would gamble how much snow would be on the ground tomorrow. At one time I bet $10,800 on three football games, and I sat in a poker game the same day with ladies playing for nickels and dimes."

Sheila would change her hairstyle, cook different foods, scream and rage and then not talk at all — all in a futile attempt to get her husband's attention. She says she was "so afraid of the truth" that she ignored the suspicious phone calls to her home that indicated her husband's deep involvement with bookies.

In perhaps the ultimate attempt to draw her husband back to her, Sheila — who had tried without success to have a second child — persuaded Arnie that they should adopt a baby, their son Howard, in 1967.

Arnie was 30, Sheila 25. With two young children and very little money, they were approaching breakdowns.

Arnie, indebted to 32 people, thought about killing himself to leave $50,000 in life insurance for his wife and kids. He even pondered committing an armed robbery to get money.

Sheila says she also considered suicide. Ashamed of her plight, she isolated herself from friends and family to the point of not even leaving their home.

In 1968 Sheila, five months pregnant, suffered a dangerous miscarriage while her husband was at the track. The next day, Arnie went to the racetrack and lost the little money he still had.

A week later, Arnie sought help through a compulsive gambling recovery program, mostly because he'd heard the group helped solve financial problems. He placed his last two wagers on April 10, opening day of the 1968 baseball season. He parlayed bets on the Cardinals and Mets. The Cardinals won, but the Mets lost, so he lost, too.

Still fighting the urge to gamble, he kept attending meetings of his recovery group.

A solitary but strong voice

For the first time in his life, Arnie was placed on a budget. He took a second job, then a third. Sheila, meanwhile, confronted her own codependent ways, accepting that she had used her depression to manipulate Arnie and others in her life.

She took courses in counseling at Middlesex County College, then at Brookdale Community College. An internship as an alcoholism counselor brought her in 1976 to the New Hope Foundation, a residential treatment center on the grounds of Marlboro Psychiatric Hospital. She would go on to become its deputy director.

Together, Arnie and Sheila rebuilt their relationship from ground level, starting with small steps such as meeting for coffee or having simple conversations about the weather.

Their third child, daughter Ivy, was born in March 1970. "A healing baby," Sheila calls her. Arnie, making amends for his past performance as a father, lavished her with attention. When she was 4 months old, the family moved from Queens to Sayreville.

Hand-in-hand with their own recoveries was an attempt by the Wexlers to help others. They were among the founding members of the private, nonprofit Council on Compulsive Gambling of New Jersey in 1982. Arnie became president of the board in 1984, then was hired as its full-time executive director in 1986.

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Arnie Wexler used his position with the council as a bully pulpit at a time when gambling was furiously expanding throughout the country. John Samerjan, spokesman for the New Jersey Sports and Exposition Authority, which operates the Meadowlands and Monmouth Park racetracks, said Wexler was a solitary but strong voice reminding legislators of gambling's human cost.

"Arnie would frequently drive administrations and legislators and regulators to distraction with his persistence, but I mean that in a nice way, because the net result of it was consciousness-raising — that yes indeed, (compulsive gambling) is a problem that needed to be recognized," Samerjan said.

Wexler's single-minded focus on the council — and his willingness to pressure, compromise and deal to get what he wants — were evident in the long-running debate over 24-hour casino gambling, which was finally approved by the state in 1991.

Wexler had long criticized the concept of around-the-clock casino operation as an invitation for compulsive gambling. But rather than oppose a measure he felt was inevitable, Wexler concentrated on winning concessions from legislators and the gaming industry.

He won two large ones, which he calls his "biggest coups."

From that point forward, the first $500,000 in fine money collected each year by the state Casino Control Commission would go to the Council on Compulsive Gambling.

And all casinos would have to include the phrase "Gambling Problem? Call 1-800 GAMBLER" on promotional material. Last year, the hot line received 39,000 calls, about 17,000 of them from New Jersey residents.

Going out on their own

Sheila Wexler's most tangible achievement lives on at the New Hope Foundation. As a supervisor there, she sought to quantify how many patients being admitted for drug or alcohol addictions also had symptoms of compulsive gambling.

Her conclusion — that up to 30 percent of the patients had such symptoms — surprised administrators at the facility and prompted them in 1987 to establish the state's first inpatient treatment program for compulsive gamblers.

In 1992, the Wexlers joined forces to start Arnie and Sheila Wexler Associates, a consulting company they operated out of their home. Last October, full of entrepreneurial ambition tempered with anxiety, they quit their jobs to devote all of their attention to consulting work.

It was not an easy decision. After spending so much of his life in debt, Arnie had rebuilt his finances and was not eager to let go of his-and-her steady salaries.

But Sheila in particular saw a unique opportunity to pursue what they loved while splitting time between their home in Bradley Beach and Florida, where they plan to spend each winter.

They now shuttle around the country, speaking to therapists, compulsive gambling institutes and, with some wariness, even those in the gaming industry who are beginning to view pathological gambling as a danger to their own business.

Ivy Wexler said she and her siblings long ago adjusted to their parents' always-ringing telephone, their busy travel schedule and their willingness to talk publicly about the family's private struggles. "After all these years," she said, "it's just the way it is around here."

Yet one cannot help noticing how the frenetic activity of the Wexlers resembles, in some ways, the frantic way they lived years ago.

It begs the question: Have they simply traded . . .

"One compulsion for another? Yeah, yeah," Arnie Wexler scoffs, a sheepish smile on his face.

Couple use compulsive gambling experience to help others

'I believed . . . that with my love and undying affection for him, there'd be no need for him to do any of this anymore ever again.'

SHEILA WEXLER

DAILY NEWS
OTB GAMBLES WITH YOUTH
Call-in OTB betting makes it child's play

● When Arnie and Sheila Wexler were married in 1961, he was 23, she, 18

● Arnie Wexler lectures on compulsive gambling during an April seminar at Rutgers University's Center for Alcohol Studies, Piscataway Township Wexler and his wife, Sheila, now devote themselves full time to consulting work

Students the losers in gambling boom

By Arnie Wexler

With the explosion of legalized gambling in the last few years, we are sending a message to our youth that pulling a slot machine or buying a lottery ticket can make their dreams come true. More advertising dollars are spent on the benefits of "winning big" than on the benefits of getting an education.

They also are led to believe that gambling is acceptable and therefore they see nothing wrong with illegally betting on sporting events on campuses throughout this country.

The statistics coming from the "1-800-GAMBLER HOTLINE" indicate that 12 percent of the calls for help last year came from youth under the age of 21. Most youth who become compulsive gamblers are bright, energetic young people with a great deal of potential. Once the gambling becomes the primary focus with them, it will ultimately destroy their motivation and, in time, it will impact on all the important areas of their lives.

In my role as a counselor, I am at this time working with a young man who was an all-American and played in the National Football League. His gambling started before college and eventually became an addiction. It has cost him his career, his family and, most recently, his freedom as he is now incarcerated.

These are some of the personal stories I have heard from college students:

- Paying someone else to take exams or write papers so as not to interfere with time needed to gamble.
- Betting on games they were playing in.
- Gambling under age in legal gambling establishments.
- Robbing a convenience store and a bank for money with which to gamble.
- Using fake credit cards, bouncing checks and creating phony checking accounts to get money for gambling.
- Selling drugs and their bodies to pay gambling debts.
- Stealing objects and money from other students.
- Selling or pawning property that belonged to the college they were attending.
- Athletes shaving points (in high school and college)
- Running bookmaking rings, football pools or card games in college.

The NCAA News

January 11, 1995,

Growing problem of gambli on campuses must be addressed

- Using tuition money for gambling
- Using financial aid or other loans for gambling
- Conning their parents to send additional money, which was used for gambling
- Stealing cars, items or money from employers for gambling.
- Selling personal property for money to gamble with

The list could go on and on, but the point is there is a serious problem of compulsive gambling in our colleges. The following quotes indicate an awareness of how the problem is increasing:

"The problem of gambling on campus has increased in recent years It's probably more pervasive than we thought " (Robert E. Frederick, chair, NCAA Division I Men's Basketball Committee)

"One of the problems with gambling is no one thinks it's their problem." (David E. Cawood, NCAA assistant executive director for marketing and broadcast services)

"Colleges need to attack the problem of gambling on campus with education " (Paul Anger, president of the Associated Press Sports Editors)

I have spoken on many college campuses and know, first hand, that there is a major gambling problem on campus. The problem must be addressed in a serious way. It will not go away On the contrary, it gets worse

I believe we need to encourage Gamblers Anonymous meetings to start on campus. Education and information should be offered to all students The subject should be included in any discussions focused on addiction Literature and information about help that is available should be offered. Counseling services should include help for compulsive gamblers

I recently resigned my position as executive director of the Council on Compulsive Gambling of New Jersey in order to spend more time lecturing on the subject of compulsive gambling, especially on college campuses Together, we can offer help to young people before they destroy their lives

Arnie and Sheila Wexler run a consultant service for compulsive gamblers They may be reached at 908/ 774-0019

Arnie & Sheila Wexler Associates
(908) 774-0019

Arnie Wexler
CCGC

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GUEST COLUMNIST

'Thank God I had stopped' gambling

By ARNIE WEXLER

IT WAS A RAINY Friday afternoon in 1983 The late Dr Robert L Custer, who was the "father" of treatment for compulsive gambling asked me to drive him to Long Island to visit one of his patients who had entered an in-patient treatment center for compulsive gambling

As we drove along the bumpy LIE, I had no idea whom we were going to visit It didn't matter I would have done anything for Dr. Custer. We had become personal friends As a compulsive gambler in recovery for 15 years, I had learned the only way I could keep my recovery was to reach out to another suffering compulsive gambler Even though it was a long time ago, I could still remember the pain gambling had caused me, my family and friends

Custer's patient and I talked for about an hour at the treatment center He was a young man, about 21 years old and very handsome. He had the body of an athlete seemed very intelligent and appeared to have a lot of potential. But he was a compulsive gambler. He already had many losses and his career was in jeopardy He was very likable and we hit it off immediately

About three months later, at Dr. Custer's home in Bethesda, Md., I met the patient again In the following year we met and spoke on the phone frequently. Even though he relapsed a few times over the next few years, we still kept in touch. During that time, he still had the ability to perform in his career, but his employers were afraid the gambling addiction might interfere. Unlike alcoholics and drug addicts, who get second chances, it is more difficult for compulsive gamblers to get second chances

THE AVERAGE LIFE

The young man got married and got a job in another field He had a radio show, and like most competitive gamblers, he succeeded at his new endeavor. Recovery, however, continued to elude him. His pain was getting greater He wanted to stop, but couldn't. The need to gamble was stronger than his power to stop by himself. No compulsive gambler can stop on his or her own He needed the help of other recovering people, but he was still struggling with this concept. The addiction had him by the throat and was destroying him.

The death of Dr. Custer (in the mid-80s) was a terrible loss to him and me. A few years later, the young man's wife gave birth to their first daughter Over the next few years, we stayed in contact by phone. Often, he would talk about his wife and his daughter and how much he loved them

Last year, before the Super Bowl, I was a guest on his radio show The discussion was about compulsive gambling Even though he hadn't stopped gambling, he was still eager to warn his audience about the devastation of compulsive gambling. Shortly thereafter, he took a "geographical cure" and moved to Las Vegas, America's gambling mecca. For most gamblers, this town is heaven. But for compulsive gamblers, it's hell Again he was a host of a successful radio show.

We had not seen each other for about five years before last week I was on one side of a glass partition, he was on the other at the North Las Vegas Correctional Center. As we talked over the prison phone, my life prior to recovery flashed before my eyes. Thank God I had stopped when I did, or I could have been on the other side of the partition. At this time, I am fortunate enough to have had recovery for 26 years. My friend told me he had 89 days without a bet He said now he believes he can stop and he wants to That's how recovery can begin You admit you are a compulsive gambler and you have the desire to stop

The next day, I saw him in court for sentencing on a bank fraud charge. I had the privilege to be asked by him and his attorney to explain the issue of compulsive gambling to the court. Not in my wildest dreams could I have believed that, in my recovery, I or anybody else would ever be asked in a Federal court about compulsive gambling

With a room full of reporters, family member, friends and recovering compulsive gamblers, the judge sentenced him to 24 months in jail. When I heard the sentence, I got pain in my stomach, my hands started to sweat and I could feel his pain. When the defendant stood in front of the judge, his only request was to serve his sentence in a federal prison in Terre Haute, Ind., so he could be close to his family

MUCH WORK LEFT

Although we have come a long way in the area of compulsive gambling awareness, there is still virtually no help in the federal correctional system. It seems to me that it would be very difficult for a compulsive gambler to find recovery or stay in recovery in this type of setting. I believe the federal correctional system should provide some of the following services: counseling, Gambling Anonymous meetings within the facility, and education and reading materials on compulsive gambling and its recovery. I strongly believe that incarceration time should be reduced in lieu of alternatives such as halfway houses or in-patient treatment facilities. In addition, I think sentencing should require the guilty to make full restitution (within a realistic budget), serve community service and continue attendance at Gamblers Anonymous and on-going counseling services

It is ironic that the young man was sentenced two days before the Super Bowl because if it were not for the fact he is a compulsive gambler, Art Schlichter might have been the starting quarterback in the game

Arnie Wexler of Arnie & Sheila Wexler Associates in Bradley Beach, N J, does workshops and seminars on compulsive gambling nationwide.

Sunday, February 5 1995 • DAILY NEWS

New Jersey Alcohol / Drug
RESOURCE CENTER AND CLEARINGHOUSE
Center of Alcohol Studies-Rutgers University

FACTS ON COMPULSIVE GAMBLING AND ADDICTION

Arnold Wexler, C.C.G.C. & Sheila Wexler, C.A.C., C.C.G.C.

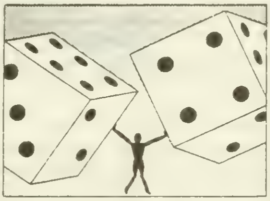
For millions of people, gambling offers a harmless and entertaining diversion from everyday life. Whether playing bingo or baccarat, these people are participating in a legitimate and time-honored recreational activity by taking a chance on an unpredictable event in the hope of winning.

For others, however, the simple act of placing a bet is a vastly different experience. What seems a moment of elation or excitement for some gamblers is in reality a moment of overwhelming compulsion—a moment in which these people have lost the ability to control their gambling behavior. These individuals cannot resist the impulse to gamble–they are compulsive (pathological) gamblers.

The social (nonpathological) gambler differs from the compulsive gambler in that he or she can quit gambling anytime, win or lose. This seems due to three factors: (1) there is no self-esteem tied into winning or losing; (2) other aspects of their lives are more important and rewarding; and (3) they rarely have a big win

With compulsive gamblers the opposite is characteristic–they fail to resist impulses to gamble, and their gambling behavior compromises, disrupts, or damages personal, family, or vocational pursuits. Compulsive gamblers exhibit a preoccupation with gambling. They have no hobbies, or only those connected to gambling. Honeymoons or family vacations are planned where gambling is available. Alienation from friends and family occurs, since the compulsive gambler becomes easily bored in social situations and prefers to socialize with people who have a gambling lifestyle. Frequently there is a big winning episode which is clearly remembered as "The Big Win."

Personality changes will occur. The average compulsive gambler has an IQ of over 120, and 96% of all compulsive gamblers started gambling before age 14. Abundant energy and unreasonable optimism are common traits of compulsive gamblers. They are characteristically risk takers, especially in financial ventures. They become restless and irritable when not gambling, and will try to avoid conflict by lying, distorting, or exaggerating. They will become hypercritical and often will blame others for gambling losses, and will brag about winnings, minimize losses, increase the amounts wagered, and become remorseful over losses.



Compulsive gamblers will bet until nothing is left: savings, family assets, personal belongings–anything of value that may be pawned, sold, or borrowed against. They will borrow from co-workers, credit unions, family, and friends, but will rarely admit that it is for gambling. They may take personal loans, write bad checks, and ultimately reach and pass the point of bankruptcy. Unlike alcoholics, who know that what they take goes into a bottle and is lost, compulsive gamblers believe that they are borrowing, and will replace what has been taken — after a "big win." However, no win is ever "big" enough. In desperation, compulsive gamblers may panic and often will turn to illegal activities to support their addiction. They may even have brushes with the law.

As was the case with alcoholism 30 years ago, compulsive gambling is a largely unrecognized and often misunderstood illness. In contrast to alcoholism and other drug problems, compulsive gambling is a "drugless" addiction. This addiction is characterized by the uncontrollable and overwhelming need to gamble, similar to an alcoholic's need to drink or drug addict's need for a "fix."

Gamblers get high without putting anything into their bodies. However, gamblers describe sensations they experience as being quite similar to those experienced by substance users and chemically dependent persons. Many gamblers will describe their excitement as a "fix." If asked, most dual-addicted cocaine addict/compulsive gamblers will tell you gambling gives them the bigger high. Some drug addicts, who are also gambling addicts, will sell their drugs for gambling money.

The euphoria associated with compulsive gambling is related to endorphin release. This is characterized by elevated subjective excitement and physiological arousal. Endogenous endorphins, which have been implicated in chemical dependence, produce effects similar to exogenous opioids. Many factors found in chemical addiction, including withdrawal symptoms, can also be found in the compulsive gambler. Gambling can elicit stimulating, tranquilizing, or pain-relieving responses, or all three simultaneously. Withdrawal symptoms associated with the cessation of gambling are related to the accompanying endorphin deficiency, and often mimic chemical withdrawal symptoms.

For late-stage compulsive gamblers, the thrill ends when the bet is placed, not when the game is won or lost. The excitement of the win is only to obtain more money to place the next bet. They are too preoccupied with planning the next "fix" to care about the outcome of that bet.

Compulsive gamblers are characterized as successful and strong-willed. They will do whatever is necessary to continue to survive and convince those around them that they are normal, and they usually appear to be exemplary and dedicated employees. These are often the people who run the office pools–on anything from football games to the time and date that "Sally in Accounting" has her baby

Gambling can get so out of control that the gambler may destroy not only his or her personal life but those of family members and significant others. Often the gambler's cover-ups and manipulations are so convincing that the spouse or partner begins to question his/her own judgment. They begin to blame themselves and doubt their worthiness. They may begin to feel unloved while playing second fiddle to the gambling. As the cycle of hopelessness continues, the partner of a compulsive gambler finds it difficult to cope with even the most simple tasks.

As partners become more and more involved with the progression of the disease and less able to cope with the gambling problem, they experience their own progression into helplessness and hopelessness and gradually cut themselves off from family and friends, too ashamed to admit their loved one has a gambling problem. They might sit at home alone day after day, terrified the compulsive gambler will desert them. Family members make excuses for the compulsive gambler's addiction and experience frequent arguments, feelings of rejection and resentment, loss of self-confidence, and increased fears, worries, anxiety, and panic. At the depths of despair, family members may suffer from mental breakdowns, turn to alcohol and/or drugs for escape, follow through on divorce actions, and consider or attempt suicide.

Financial problems and pressures are present. These include telephone calls from bookies or loan sharks, calls from friends or relatives to whom the gambler owes money, and threatening mail and calls from banks or financial institutions. The compulsive gambler may have taken a second mortgage or equity loan, cashed or taken a loan on an insurance policy, or sold or pawned anything of value–with or without the knowledge of the partner. While compulsive gamblers go to great lengths for gambling money, there is often no money for food or other basic needs. Children may be neglected or suffer emotional and/or physical abuse.

As the cycle spirals downward, the compulsive gambler may also contemplate suicide as a way out of his or her problems. Friends and family members may try to "rescue" the compulsive gambler with money for a "bailout." Bailouts only enable the compulsive gambler to continue the addiction and delay the "bottoming-out" process–the point at which the gambler may begin to seek help. The answer is neither to bail out nor to shut out the gambler: the answer is for family members to get help for themselves, whether or not the gambler is ready for help, and to assist the compulsive gambler in seeking counseling.

In a survey of New Jersey treatment centers, 28% of patients receiving inpatient treatment and 22% in outpatient treatment for chemical dependency had gambling as a co-addiction. In some cases, gambling is the primary addiction. This is not surprising, especially if the dual addiction is alcoholism. One study reported that 25% of surveyed gamblers used alcohol and/or other drugs while gambling. The potential for the replacement of one dependency for another is high and can result in relapse. In cases where there is a clear pattern of dual addiction, relapse may result unless both addictions are treated.

The treatment community needs to assist alcoholics and drug addicts to identify the problem of compulsive gambling. This can be done by adding questions pertaining to gambling on intake forms and/or by administering the South Oaks Gambling Screen, a diagnostic test that assists in determining if compulsive gambling is present. Educational lectures and films can be added to existing programming. Staff can expand their knowledge of addiction by receiving training about compulsive gambling. It is also necessary to include Gamblers Anonymous in aftercare planning.

While compulsive gambling may be a hidden disease, the professional community needs to break the code of silence around this addiction.

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1315 West State Street, Trenton, NJ 08618 (609) 599-3299

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APPENDIX 13.—STATEMENT OF VALERIE C. LORENZ, PH.D., CPC, EXECUTIVE DIRECTOR, COMPULSIVE GAMBLING CENTER, INC.

Mr. Chairman and Members of the Committee:

Enclosed is a copy of my testimony to the House Committee on Small Business on September 21, 1994, on HR 497, to establish a national commission on gambling. I would like to present the same testimony, with further comments.

Since last September, with state government's and the casino industry's continued aggressive efforts to expand gambling, our office has been virtually bombarded on a daily basis by requests for information and requests for treatment assistance. Whereas in the past we would get one or two calls a week, we now get five to ten calls per day.

Calls from Louisiana, whether from health providers, teachers, or citizens typically start with "The gambling in Louisiana is completely out of control." Citizens groups throughout the nation are forming to protest casinos coming into their states or to repeal legislative action on existing gambling. Legislators are admitting they wished they had never passed lottery bills, but feel trapped now that state budgets have come to depend on lottery revenues.

In the past our Center would get perhaps eight to ten court cases a year involving compulsive gamblers who committed crimes to support their gambling addiction. Now our Center gets one or two criminal cases a week. The dollar amounts involved in these cases keep going higher (U.S. v. Roy Wm. Harris, embezzlement of over $200 million), and the clients are younger. Just this month I have interviewed six young men for criminal offenses related to gambling. The oldest was 28 at the time the offenses were committed, the average amount stolen was $200,000 - all to support their gambling addiction.

Legal costs regarding compulsive gamblers and their crimes can escalate very quickly to astronomical figures in direct and indirect costs. It is not just the amount of money stolen to support the gambling addiction. Consider the costs of police officers filing the initial complaint, investigating all charges (compulsive gamblers may have defrauded a dozen banks, written 30 bad checks, or have 20 or more credit cards), often requiring several interviews for each charge, time to confer with their superiors, writing up all reports, conferring with the district attorney, testifying in court; costs of public defenders in meeting with the offender, case reviews, research, court filings, plea bargains; district attorney's time in filing, meetings, and testimony; court costs in indictments, pleas, and sentencing hearings, pre-trial investigation costs, prison costs, probation and parole costs.

Add to that the amount of money stolen and irretrievably lost to the casinos, bookies, race tracks, lotteries or machines, together with loss of employment, welfare costs and bankruptcy costs.

A 25-year old compulsive gambler, with a criminal record, released after one or two years in prison, with no treatment - what is his income potential? Indeed, what is his potential for relapse and recidivism into the criminal justice field?

Our warnings have always been that the easy accessibility of gambling will lead to an increase in compulsive gambling. That, sadly to say, has been proven true over the years. Our more recent concern is "What are we doing to our young people? Do we really want to breed a nation of gamblers? What is the consequence of that?"

Who will pay for the costs of compulsive gambling? There are no federal funds for that. Very few states have allocated funds for hotlines, prevention programs, treatment for gambler or family members, training of health professionals, or research. The industry's response has been niggardly. The casino industry's actions, promises and protestations are really subject to scrutiny.

State lotteries are expanding their games. The Maryland Lottery now has a daily lotto. Drawings are twice a day. Credit gambling and telephone betting is in the not too distant future. Race tracks are allying themselves with the casino industry. They, too, are extending credit and expanding to home telephone betting. There is no limit to the expansion and invasion of gambling.

In 1988 Congress made a fateful decision that led to Indian Reservation gambling. We are now seeing the consequences of that action. Where will all this current and proposed gambling lead? That is a question that a Commission, such as is proposed in HR 497, needs to explore.

I urge you to vote for passage of HR 497, placing particular emphasis on compulsive gambling.

Thank you for your time and consideration.

Valerie C. Lorenz, Ph.D.

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October 9, 1995

Mr. William S. Ratchford, Director
Department of Fiscal Services
Maryland General Assembly
Legislative Services Building
90 State Circle
Annapolis, MD 21401-1991

Re: Response to Preliminary Draft of
"Projected Impact of Casino Gambling
in Maryland"

Dear Mr. Ratchford:

Thank you for granting me the opportunity to review the Preliminary Draft of the Projected Impact of Casino Gambling in Maryland. I trust that my comments will be taken in the light in which they are intended - constructive criticism, and that corrective measures will be taken before publication of a Final Report.

The amount of work that went into the preliminary draft is easily recognizeable; however, in its present state for the sake of accuracy the draft should be titled The Casinos' Benefits of Bringing Casinos into Maryland. What is missing is the final figure of projected profits for each and every casino that may come to Maryland - which then begs the questions, is it appropriate for the General Assembly to promote a type of business that is highly profitable for outside interests, at the expense of Maryland's citizens?

The report, in its entirety, takes the posture that the state of Maryland will reap considerable economic benefits from casinos within its boundaries, even though there may be potential or short-term fall-out on various other gambling industries in Maryland, such as the state lottery, bingo, or charitable gambling enterprises currently legal and operative in the state.

The authors went into considerable length at a review of the pro-gambling literature and in discussing low, medium and high potential for profits. Unfortunately, the same effort was not expended on the negative impact. At best, the potential negative economic or social impacts were dismissed with a brief acknowledgement of a potential negative outcome or, as in the area of compulsive gambling, were blatantly misleading.

Further, invariably the comments were to the effect that casinos could not be considered causative, that other factors needed to be considered, such as the economy or geography. No attempt was made to determine negative economic costs, on a similar high, medium, low rating level. For instance, 38 pages were allocated to determine potential income, yet regulatory costs, infrastrutural costs, qualitiy of life issues, organized crime and public safety concerns were mentioned only in the briefest possible manner, and no attempt was made at determining potential costs.

I am particularly concerned about the blatant misrepresentations made in the area of pathological gambling (for the record, the terms "compulsive" gambling and "pathological" gambling can be used interchangeably: the former is colloquial, the latter is clinically correct).

The comment that "pathological gaming is not a problem in Nevada and Atlantic City because most of the afflicted are tourists" (page 40) represents the identical protestations of the casino industry, is the industry's marketing approach, is self-serving and totally without merit. I am concerned, indeed outraged, that the Department of Fiscal Services would accept at face value and then parrot such statements.

First of all, there is no such term as pathological gaming - it is pathological gambling. Secondly, there are round-the-clock meetings of Gamblers Anonymous in Las Vegas, simply to address the needs of the local gambling addict. Some fifty chapters of Gamblers Anonymous have been started in New Jersey as a result of the Atlantic City casinos.

Further, if there were no problem, then why is the casino industry now saying it is taking "an aggressive" approach to combat compulsive gambling? The fact that a state department of health has not in the past taken counteractive steps does not deny the existence of a problem.

Further, if "most of the afflicted are tourists" then why has the Maryland General Assembly consistently failed to address the needs of its own citizens, who do in fact go to the Atlantic City and Nevada casinos? Legislative bills to provide compulsive gambling assistance in Maryland have been killed in committee each and every year since 1984 even though our General Assembly acknowledged in 1978 that compulsive gambling in Maryland represents a serious socio-economic problem.

Why has the Department of Fiscal Services not provided the same kind of diligence in its studies to the problem area of gambling that exists and was increased due to Atlantic City casinos that it has applied to the potential economic benefits of casinos in Maryland?

The preliminary draft compounds the inaccuracies by then elaborating "the problems that arise from casino gambling are likely to appear at the individual's place of residence and not in the casino city." Is the reader to believe that residents who live and gamble in a casino city, by virtue of residence are somehow immune to developing a gambling addiction?

Taking that statement to another level of absurdity, would it not then make economic sense to send Maryland's compulsive gamblers to a year of residence in Las Vegas or Atlantic City to be cured of their gambling addiction?

Yet the Draft admits some types of gambling activity, such as the slot machines and video poker machines (which also includes the fruit machines and eigth-liners) "are more problematic than others." The reality is that casinos, whether landbased or aboard ship, are lined wall-to-wall with such machines. It is the industry's major source of income., It is further projected that these machines will also be in race tracks. Why then, if there will be tens of thousands of such machines in Maryland, will there not be an increase in compulsive gamblers?

The Preliminary Draft acknowledges "an average cost of $56,000 per patient" in 1985 dollars. Why did the Draft not translate this into 1995 dollars?

The Draft did not consider the 1990 cost of $1.5 billion a year relative to compulsive gambling in lost work productivity and "abused monies" - i.e., stolen, embezzled, state taxes not paid. These figures, from the two-year Task Force on Gambling Addiction in Maryland, sponsored by the Maryland Department of Health and Mental Hygiene, are readily available.

The costs of lost work productivity, crime, bankruptcy, failure to repay debts, co-morbidity, treatment, preventioan programs, etc., related to compulsive gambling can readily be projected at a high, medium and low level. The Preliminary Draft fails completely to determine these costs. Why?

The literature review is selective and suggestive of the type of research more conducive to the casino industry's efforts of expansion, rather than a governmental agency's posture of neutrality and objectivity. There are many printed materials by Kindt or Grinnols (economics), Clotfelter (taxation), Kaplan (lottery), Rose (law), Holmes or Lesieur (crime), Grey (morality), Politzer, Yaffee (economics of compulsive gambling, and Lorenz (health) available.

The report could have expanded considerably on issues which were not mentioned, such as the sudden emergence of Indian tribal rights in Maryland (Shawnee, Piscataway), political corruption as evidenced recently in Louisiana, increase of child abuse, and the strong anti-casino movement which has spread across the country in the past two years.

It should discuss how casinos come into an area in small numbers, and within a short period of time reach into the twenties and thirties in number, thus having considerable negative impact on other Maryland gambling and non-gambling ventures and on compulsive gambling. Last year, for instance, over thirty casinos were projected for Maryland. The Preliminary draft suggest four landbased casinos, and a small number of riverboats. What will happen in Year Two or Year Five of casinos in Maryland?

The report also fails to address the increasing number of financial failures, bankruptcies and mismanagement of casinos. Certainly Maryland already has its own share of questionable accounting practices in its fraternal clubs and P.G. County casinos, and its own failure at regulation, law enforcement and crime prevention, all of which result in loss of state and local taxes and which will increase the financial burden on our communities to correct.

In short, the Preliminary Draft not only needs to be presented in a more neutral language and findings of fact, but it should provide similar attention of detail to all of the other aspects of casino gambling in Maryland.

As it stands, the Preliminary Draft fails to meet the standards of objectivity, consistency and accuracy expected of a governmental agency report.

Respectfully submitted,

V. C. Lorenz, PhD

V. C. Lorenz, Ph.D.

Compulsive or Pathological Gambling

According to Robert Goodman's research on casino gambling, as many as 9.3 million adults and 1.3 million teenagers in the U.S. have some form of problem gambling behavior.[25] Some types of gaming are more problematic than others. Those that offer fast action and immediate payoff (keno, slot machines, video poker, etc.) tend to be more addictive.

Interestingly, pathological gaming is not a problem in Nevada and Atlantic City because most of the afflicted are tourists. Consequently, if the casino draws heavily from a non-local population, the problems that arise from casino gambling are likely to appear at the individual's place of residence and not in the casino city.

Pathological gambling disrupts the afflicted person and his or her family and produces a need for treatment and training. These costs may offset a considerable portion of public benefits for which the casinos were legalized. Research indicates that, excluding trial and incarceration costs, the social cost of compulsive gambling totals an average of $56,000 per patient (in 1985 dollars).[26]

Organized Crime

The relationship between organized crime and casino gambling has long been cited by opponents of casinos. As early as the 1930s, casino gambling has been linked with organized crime. During the 1960s, federal investigations into the role of organized crime in the Nevada casino industry created a strong belief that casino operations were plagued by problems of hidden ownership interests, money laundering, and income tax evasion.

The pervasive link between casinos and organized crime, however, is changing. The entrance of publicly traded corporations into the gambling industry has significantly improved its reputation. Most of the gambling establishments today are owned by Fortune 500 companies whose licenses, accounting methods, investments, and earnings statements are stringently monitored by the Federal Bureau of Investigations, the Securities Exchange Commission and other federal agencies.

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[25] Robert Goodman, Legalized Gambling as a Strategy for Economic Development, United States Gambling Study, March 1994, p. 88.

[26] R.M. Politzer, J.S. Morrow, and S.B. Leavey, "Report on the Cost-Benefit/Effectiveness of Treatment at the Johns Hopkins Center for Pathological Gambling," Journal of Gambling Behavior, 1985, vol 1.

APPENDIX 14.—STATEMENT OF MICHAEL SCHAEFER, PUBLIC INTEREST ATTORNEY, LAS VEGAS, NV

Mr. Chairman and Member of the Committee:

I'm Michael Schaefer, public interest attorney from Las Vegas, a community whose county now has about 1,000,000 residents and is America's 9th most liveable community according to Money Magazine, being originally a San Diego native where I served as a prosecuting attorney and two-terms as City Councilman. As a Georgetown graduate, I don't want to miss any opportunity to return to the Beltway and see what our government is doing. Chairman Hyde and Congressman Frank Wolf being fellow alumni can appreciate my sentiments.

As to establishment of a national gaming commission, I think we are using a shotgun when a rifle's accuracy is needed. My primary concern is the development on Indian lands everywhere of gaming facilities that may be inconsistent with the State's policy. The only reason Salt Lake City is without a casino is that the Indians have not acquired lands there. Yet. We must act to preserve the integrity of State's Rights.

As the years go by the Chiefs of our Indian tribes may discovery that bordellos are a profitable business, and will states be able to control any desire to go into this business too, perhaps as an adjunct to casino development? After all, both industries prosper in Nevada. Would the public policy of any given state, as established by its legislature, be sufficient to regulate what Indian management wanted to do? Nevada bans such activity in the Las Vegas and Reno areas, but rural Nevada for perhaps over 100 years has permitted, licensed and regulated ladies-of-the-night.

I have two sons in college in California, one of whom was born in Las Vegas, He enjoys gaming, and comes to visit dad when he can. But he also slips away to one of two booming Indiana casinos right at home in San Diego, Barona and Viejas, to play blackjack, and more often than not losing some of the money I have provided for his schooling. And I have loaned him a credit card to purchase books and school supplies, only to find him accessing cash for the gaming tables from a machine that takes all major credit cards at one of the Indiana casinos. I know that the County of San Diego and the State of California legislatures did not invite Indian casinos in our neighborhood, and they appear toothless to do very much about it.

Unless we are about to sell Manhattan back to the Indians and start this experiment in democracy all over again, and maybe do it right this time, I suggest that we need a focused, rifle-shot inquiry into the issue of federal jurisdiction and states rights relative to the use of Indian lands. The Congress and the Courts should have absolute authority within the borders of America. And I don't see that happening, as to the growth and promotion of Indian interests.

It would be my recommendation to this Committee, and to Senator Paul Simon, that a joint Commission involving the Department of the Interior, the Department of Justice, the National Governors Association the National League of Cities, and Congressional leadership, be formed to determine whether or not we've lost our ability to govern Indian lands. We owe it to ourselves, our communities, our families.

Thank you.

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